FEDERAL GOVERNMENT'S FAILURE TO COLLECT DEFAULTED LOANS FROM ITS OWN EMPLOYEES

HEARING

BEFORE THE

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND GOVERNMENT PROCESSES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

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FEDERAL GOVERNMENT'S FAILURE TO COLLECT DEFAULTED LOANS FROM ITS OWN EMPLOYEES

WEDNESDAY, JULY 21, 1982

U.S. SENATE,
SUBCOMMITTEE ON ENERGY,
NUCLEAR PROLIFERATION, AND GOVERNMENT PROCESSES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 9:37 a.m., in room 3302, Dirksen Senate Office Building, Hon. Charles H. Percy (chairman of the subcommittee) presiding.

Present: Senator Percy.

OPENING STATEMENT OF SENATOR PERCY

Senator PERCY. Today's hearing will focus on one of the most appalling examples of waste and mismanagement in Federal programs: The Government's inability to collect defaulted loans from its own employees.

In 1977, with the help of a Federal loan, a young man in the Midwest graduated from law school. The taxpayers of this country invested $4,000 in order to give him a chance to be successful, in order to give him a chance to get a good job.

Less than 2 years later, he turned his back on these same taxpayers by defaulting on his loan. So far, this story would not raise any eyebrows—it is not an unusual occurrence. What happened next, however, is.

Within a few months of the default, the Department of Education—the same Department responsible for administering the loan—hired this attorney at a $22,000 annual salary. The Department promoted him in 1980.

In 1981, Congressman Derwinski wrote three letters to the Department of Education and one to the Justice Department demanding that something be done about him. Nothing was done. In fact, this same employee received yet another promotion in 1982 to a $34,000 salary. Now, 3 years after his initial default, following a court judgment and four letters by Congressman Derwinski, the debt is still not paid. And this debtor has now filed for bankruptcy, so he may never have to repay the taxpayers for the loan that made his education possible in the first place.

In 1980, an employee of the Internal Revenue Service refused to pay a $5,299 tax debt. Because of his refusal to pay the tax, the IRS tried to fire the employee, as is permitted under the agency's "Handbook of Employee Responsibilities and Conduct."

The employee appealed the firing to the Merit Systems Protection Board. The Board reversed the IRS firing, because it considered the unpaid debt to be a "personal matter" not warranting agency discipline.

These, unfortunately, are not isolated cases. In 1979, the Government identified 84,000 Federal employees in default on debts to the Department of Education and the Veterans' Administration alone.

At the Department of Education, a computer run discovered 17,000 Federal employees to be in default on student loans. Yet, despite the fact that only 1,363 of these employees paid in full, the Department destroyed the list of employees for "privacy reasons" 2 years ago. We don't know who or where the rest of these employees are.

We will bring some of these cases to life here this morning. Through the testimony of one debtor and several Federal prosecutors, I hope to get to the bottom of what I consider to be one of the most outrageous situations that I have seen in 16 years in Government. I also want to learn why so many federally employed doctors were able to avoid paying their medical school loans while under the employment of their creditor, Uncle Sam.

We had testimony here several months ago from the medical schools, including Harvard, indicating that the systems that were used were simply inadequate. I think of all the tragedies I have seen. It is the way that we start out, young people in this country, who have respect for one agency of Government, IRS, generally speaking. They generally have to pay their IRS, but the other 308-some loaning agencies, particularly with young people, they, as a young farmer, a young doctor, whatever it may be, find that they are simply not followed up.

The local department store will pursue them, turn their records over to the collection bureau for immediate action. The Federal Government has no established procedure. In fact, the Federal Government doesn't even ask them when they make the loan for their social security number in order to find them.

Then, when a letter is received, maybe they throw them in the dead letter file at the agency, and once again no followup has occurred.

This is a fine way for a young person to start their relationship with the Federal Government. Really contempt with the inefficiency of the system that brought the loan to them in the first place and didn't efficiently look as though they were trying to collect it back.

An investigation by my subcommittee staff and Congress Derwinski's staff has shown that the Government has done little to go after well-paid Federal employees who are unquestionably in default on their student loan. But more importantly, the Government is almost powerless to exert pressure on its employees to pay these debts. It is extremely difficult, if not impossible, to involuntarily garnish a Federal employee's salary. My legislation—the Debt Collection Act of 1981—would, once and for all, allow Federal employee wages to be offset for not paying a just Federal debt. In addition, it is unclear whether an agency can discipline an employee for defaulting on a Federal debt, as the IRS case mentioned before illustrates.

The purpose of this hearing is not to single out a few employee debtors to embarrass them. Rather, it is to use their experiences to show where the system breaks down, allowing this situation to occur.

If an employee of the First National Bank of Chicago, for instance, defaulted on a mortgage loan from that same bank, had a court judgment against him, and still refused to pay, I would venture to say that he would not be an employee of the bank very long. There is no reason why a Federal employee should not abide by the same standards—in fact, the standard of conduct for a Federal employee should be higher.

The American people have lost confidence in their Government. Certainly, the reckless administration of hundreds of Government loan programs over the past few decades has not helped to bolster any confidence. Delinquent debts owed the Government now exceed $40 billion. That is debts in default or delinquency. If we could collect these debts, we could give an additional $4,000 loan to every single college and graduate student in the United States.

Let there be no mistake about this. Our success or failure in collecting overdue loans from past generations of students could have a lot to say about the mood in the Senate—and, I expect, in this administration—as funding levels for these loan programs are set.

The longer these high default rates persist, the more these loan programs begin to look like grant programs. I am now and have always been a strong supporter of student loans. But if we are unwilling or unable to crack down on past generations of students, and if these loan programs ever run short of funds, it would be future generations who would suffer. That would be not just unfair—it would be unfortunate for the entire country.

We want these debts collected. Following the hearings I chaired last December on medical school loans, the Reagan administration cracked down on that program, and collection rates soared. Now it is time to do the same with Federal employee debtors.

[Information submitted by Senator Percy follows:]

STATUS OF DEPARTMENT OF EDUCATION
FEDERAL EMPLOYEE DEFAULTS

Federal Employees	Status of loan dispute
17,340	Total
810*	Deferred or in dispute
1,363	Paid-in-full
468*	Written-off
6,402*	"Made commitment ot pay"
188*	Bankruptcy or death
1402*	Referred to Justice Department for litigation
3,910*	Never paid

*These accounts may still be in default.

STATUS OF VETERANS ADMINISTRATION
FEDERAL EMPLOYEE DEFAULTS

Federal Employees	Status of loan or dispute	$$$
66,000	Total	
7,724	Are in repayment	4,708,000
26,019	Not in repayment	15,806,000
33,743*	VA unable to determine status	20,515,000

*These accounts may still be in default.

FEDERALLY EMPLOYED LOAN DEFAULTERS

Department	# of Debtors	$ Amount
Education *	17,340	$17 million (est.)
Veterans Administration **	66,000	$37 million

* 1979 data (latest available)

** 1980 data (latest available)

GOVERNMENT EMPLOYEE CLAIM

CASE #1

VETERANS ADMINISTRATION EDUCATIONAL BENEFIT
OVERPAYMENT CLAIM OF $1,131.20

History of Claim:

6/11/54	Entered USAF
6/30/74	Retired USAF--receives retired pay USAF
12/13/76	Employment GSA--receives salary in addition to retired pay
8/76	Applied VA Educational Benefits
Fall '76	Withdraws from school, fails to notify VA, overpayment resulted
3/79	VA determined this debt to be due and payable
2/80	Referred to US Attorney
11/21/80	Trial date--default trial --defendant didn't appear
2/7/81	Judgement entered against debtor
5/25/82	Court requests USAF to involuntarily garnish against debtor's government pension
6/16/82	USAF denied request
7/8/82	GSA supervisors get voluntary payroll deduction authorization NO VOLUNTARY OFF SET EFFECTED

GOVERNMENT EMPLOYEE CLAIM

CASE #2

USDA LOAN

History of Claim:

2/20/74	Received USDA $7,500 loan
1978	Defaulted on $5,400
1/80	USDA hired debtor at $21,449 salary
4/10/80	Referred to US Attorney
5/21	Suit filed
6/2/81	Summary judgement granted against debtor
6/11/82	USDA prepared to offset whether offset is legal
6/21/82	Still no payment

GOVERNMENT EMPLOYEE CLAIM

CASE #3

EDUCATIONAL LOAN

History of Claim:

1972	Graduates with a Masters degree with $4,000 loan
1973	Defaults on $4,000 loan
1974	Hired by Federal Gov't (HEW)
1979	Court judgement--$4,561
1979-1982	Debtor refuses to pay, cannot afford to pay in spite of $20,000 car purchase
1982	Debtor agrees to pay

CUBAN STUDENT LOAN PROGRAM

	Accounts	$
Total Loans Made	16,100	$34,000,000
In Default in 1980	8,991	$18,546,000
In Default in 1982	11,100	$21,700,000

Senator PERCY. The subcommittee is very pleased, indeed, and honored to have two outstanding Members of Congress who, through their own initiative, have shown their deep interest in this problem. I would like to welcome both of you here this morning.

Congressman Derwinski, I understand you are on a tight schedule, so I will try to expedite any questions to you. We will cordially invite you to join the subcommittee for questions to the extent that you have time. All of us represent residents of the great State of Illinois. Our constituents work hard, pay their taxes and expect the Government to manage their tax dollars wisely.

The people of our State and the rest of the country will be shocked at the revelations at today's hearing. Not only has the Government been lax about collecting loans it makes, but it has been most lax about collecting loans it makes to its own employees—employees who obtained their good Government jobs with the Government's help in allowing them a good education.

I want to thank you both for your support of the debt collection legislation. Congressman Derwinski, I particularly want to thank you and your staff for your tremendous help in investigating this situation and Congressman Crane, for the inflating support you have provided, the creativity in your own office and your staff and your own personal time and thought that you have put into this effort, which is just one of many areas that I think the investment and congressional salaries in this case have been very, very high, ineded, for the country and certainly for our State.

Congressman Derwinski, would you kindly begin? You are free to summarize; the full text of your testimony will be incorporated in the record.

TESTIMONY OF HON. EDWARD J. DERWINSKI, AND OF HON. DANIEL B. CRANE, REPRESENTATIVES IN CONGRESS FROM THE STATE OF ILLINOIS

Representative DERWINSKI. Thank you, Senator Percy.

In order to give the maximum time to our witnesses, I want to see that we do adequately question them. I will be very, very brief. I would just like to follow up the basic point you made and point out that we are speaking of awesome figures: $240 billion due to the Treasury of which $37 billion is delinquent. That is a delinquent rate of 15.15 percent.

We think of the positive impact that we could have on our budget situation with an effective debt collection program. We could see the potential here. I would like to point out that the situation is especially troublesome in regard to various student-loan programs, most of which are set up on the revolving fund basis. If these loans are being repaid and the moneys are returning to the funds, they would be available for new loans to present students. One of the great controversies of the present budget period could be avoided. These defaults, basically, are depriving current eligible students of loans they would need.

I think it is a matter of good government, it is a matter of, of course, legality, and it is a matter, of course, of ethics to see that we maximize collection from the various delinquent loan accounts. When we do so,

we should keep in mind that many of the individuals now delinquent have excellent positions and are doctors, lawyers, nurses, high-level Federal employees, many of them earning as much as $40,000 a year by now. To think that there is no real effort to see that they repay their specific obligations to the Federal Government is shocking.

I wish to commend you, Senator Percy. You gentlemen in the Senate have advanced more rapidly than we have in the House in legislation. I am hoping that as a result of these hearings we could prod our House colleagues on the Post Office and Civil Service Committee and move the bill and, by the end of this session, have a good debt-collection law which the administration could effectively utilize. The President has emphasized a need for an aggressive debt collection program. We in the Congress should give the administration the legislative cooperation needed to equip the executive branch to function more effectively in this area of debt collection.

If I may make just one final point, I believe that we can't just be critical of the executive branch and not clean up our own house. I have written to the Clerk of the House of Representatives to screen all individuals now employed in the House to ascertain those that might be in default and take the steps necessary for collection and then, so that we would be absolutely fair, I also thought that we should bring the judiciary into the act.

I have written to the Clerk of the Supreme Court asking him to check any delinquents on their employee rolls to see that they would advocate the same procedures and see that anyone that defaults would, since they draw a check from the Federal Treasury, comply with the obligations they have.

With that, I thank you for your courtesy, Senator Percy. I am looking forward to joining you in questioning our witnesses.

Senator PERCY. I will have a few questions for you. I think we would all like to have Dan Crane testify now. I have praised you in your home district recently for your tremendous support and help in this legislation. I would like now to do so nationally. So many times we carry a bill over here. and then it just doesn't have the impetus and impact in the House. Many bills have died because the House just didn't pick them up. In this case, we have tremendous confidence and have told Howard Baker we will have a House bill. We have power behind it with the two of you and your colleagues that we very much appreciate. I would be happy to have your testimony now.

Representative CRANE. Thank you, Senator Percy. I have submitted my statement for the record and will try to be brief here. I appreciate the opportunity to appear before the committee today to express my views on the urgent need to strengthen credit management practices of Federal Government. Senator Percy, and members of this committee, I want to commend you for your continuing efforts to focus attention on the magnitude of this debt collection problem and the need for legislative action.

This overall picture of the dire situation is of concern to us all. The amount of overdue and uncollected debts owed the Government is enormous. An estimated $33 billion of the $218 billion owed to the Government in 1981 has now grown to $37 billion delinquent and a total of $40 billion and it keeps rising.

An additional $8 billion in loans are in some form of rescheduled or stretched-out status because of borrowers' inability to pay. Over $1 billion in bad debts are being written off each year. It is estimated an additional $8 billion will be written off over the next several years.

The Federal Government is losing $10 million a day in the debt-collection program. $25 billion owed in delinquent loans and taxes are costing the Federal Government $10 million a day in interest payments. These calculations are based on an interest rate of approximately 12 percent. The inadequacies in the Federal Government debt-colleagues in the dental profession and medical profession have slipped for some time. In the last 5 years, the General Accounting Office has prepared over 30 reports on this subject.

My personal concern and outrage over the debt-collection mess was further heightened when I learned the results of an audit of various medical loan programs. As you know, I was a dentist back in the private sector. These statistics bother me immensely. To know some of my colleagues in the dental profession and medical profession have slipped away and are not fulfilling their obligations.

The auditors found that in 1981, 59,053 low-interest, Federal loans awarded for study in the health professions were at least 1 year in arrears. That has since grown to 63,402. With respect to physicians per se, a group displaying one of the highest average incomes of any profession in the country, the HHS audit revealed that some 6,000 doctors are more than a year behind in repaying their student loans. This translates into over $5 million on the 6,698 delinquent loans.

My general indignation as a taxpayer at this state of affairs is compounded by a sense of personal embarrassment for the blatant negligence of some of my professional colleagues. The availability of loans at rates below those available commercially has provided a critical component in financing the educational expenses of many deserving students in the health profession, but once the schooling is completed, these professionals typically earn a comfortable income. In short, the "deadbeats" identified in the recent HHS audit, particularly the 6,000 or so physicians, in the various vast majority of cases undoubtedly are quite capable of meeting those payments.

Such delinquencies, of course, deplete the loan money available in the revolving fund as my colleague, Mr. Derwinski, has stated, for future borrowing by doctors, nurses, et cetera.

Moreover, a critical problem has been the inadequacy of the agency accounting systems, so that basic data on accounts receivable, delinquencies, and so on often proved elusive or unreliable. Despite the dismal record that I have described and discussed more fully in my statement, I am hopeful that efforts already underway will greatly strengthen the Federal credit management in the near future. The administration has proposed legislation, S. 1249, that will correct many of the problems associated with the debt collection effort in the past. This legislation removes obstacles to effective, businesslike collection activities, provides necessary tools for collection; creates incentives for debtors to repay loans, and places direct responsibility on agency heads to insure aggressive debt collection efforts.

I support the administration's efforts to rectify this situation through the provisions of S. 1249. I am also cosponsor of Congressman Derwinski's bill, H.R. 5471, which would authorize Federal agen-

cies to garnish employees' pay for debts owed the Federal Government. These bills and numerous other measures addressing this problem are needed to correct the deficiencies in the loan programs.

Collecting outstanding debts owed the Government and returning the moneys to the programs will insure the availability of funds and will preserve access to the funds for many students who are in need of the financial assistance.

Those individuals receiving loans from the Federal Government should remember the immortal words of John F. Kennedy, "Ask not what your country can do for you, but what you can do for your country."

Thank you.

Senator PERCY. Thank you very, very kindly. On that very high note at the end, we will go into a few questions.

I wonder, Congressman Derwinski, if you could expand a little bit on the particular case that you followed up. I have found it helpful to take an isolated case that is worth the time and effort to demonstrate the principle that you were trying to establish.

If you could expand just a little bit on the circumstances behind that case and how you got involved in it.

Representative DERWINSKI. It was called to my attention by a constituent who was involved in debt collection efforts in the University of Indiana, I believe. He complained about the noncooperation of the Government agency. We pursued it and discovered that, in this case, the university was correct.

Then, as you indicated, we followed up with the routine letters, and, of course, received routine replies, but no real action or cooperation.

I think what this dramatizes, Senator, is the combination of the insensitivity of many of the administrators and just their failure to recognize the shocking nature of this whole situation.

If we have a situation where Government employees feel that they don't have to pay Uncle Sam back, I think this sets a terrible example for John Q. Public. I think we in Congress here, we in the legislative branch, have to give the executive branch the tools to get to the bottom of this mess or the national indignation will be a deservedly terrible thing.

Senator PERCY. This legislation is not without opposition, as you know.

Representative DERWINSKI. That is correct.

Senator PERCY. Who could be against it, but opposition does come, in this case, from the Federal employees' unions. Last year, the president of the National Treasury Employees Union testified that allowing agencies to deduct overdue loan payments from Federal paychecks was "unnecessary and unfair because Federal wages are already subject to garnishing." As I understand it, a Federal employee can only have his or her paycheck garnished if he or she voluntarily submits to it, a privilege that does not apply to private sector employees whose paycheck can be unvoluntarily garnished.

Congressman Derwinski, do you agree with me that it is neither unnecessary nor unfair? I would say it is very necessary and very fair, in my opinion, to make Federal employees, particularly, accountable for their student loans and debts as every other person in the country. Why

should a Federal employee be treated differently from any other person from the standpoint of paying that back, particularly when it is the same Government that hands them a paycheck and then he withholds paying back his student loan or whatever debt it might be, but they are paying off their other credit debts and have a perfect credit rating?

Representative DERWINSKI. I agree completely, and I would add one other point: I think that the union officials representing Federal employees in their various organizations serve them poorly if they try to resist the collections we are trying to make.

I would point out to you that outside of the Federal sector, there is a great frustration, at the public level, about the bureaucracy, their effectiveness or lack of it. There is a feeling that Federal employees are, in many cases, a select and pampered group of people. We know that when we debated the whole aid issue in the budget, and by permitting Federal employees to fall into a pattern of abuse such as we have dramatized, will add to public indignation.

If I were to give advice to the National Treasury Union or AFGE or any group representing Federal employees, I would suggest they get on the bandwagon and help to pass this legislation.

It will be in the long-term interest of all Federal employees.

Senator PERCY. Thank you, very much.

Congressman Dan Crane, we will hear some very disturbing case histories of Federal employees this morning, lawyers, doctors, who were able to continue working for the Federal Government even though they were defaulting on their loans from that same Federal Government.

In talking to some of these in preparation for the hearings, one of them told us the Department abused his right in trying to collect his 8-year-old loan. The debtor is a $35,000 employee of the Department of Education. He never would have been hired if he hadn't received his higher degree from a student loan. He has been working for the Department of Education for 8 years earning a high salary and has not paid his debt back. I know that you have thousands of students in your own congressional district. It is a conservative congressional district from the standpoint of believing that this Government has to run itself more efficiently and effectively, and you have done your part in seeing that we do.

How do you think they would react to hearing stories of this kind? How do you think students feel as they see the possibility of various loans being cut back; how do you feel, now, about students that have long received their education, earning good salaries, working for the Federal Government, and still have not paid their student loans back? Do they have the same sense of outrage we have?

Representative CRANE. Absolutely, Senator. The fact is that today it is more costly to go to school, and when we have people who do not fulfill their responsibilities py repaying their debts, they are jeopardizing the chance for others to get an education and better their skills. I find it appalling. As Congressman Derwinski stated, one bad apple spoils a barrel. I would like to clean up the act of my own colleagues, and Federal employees, so taxpayers who are truly outraged will have better feelings toward Federal employees.

Senator PERCY. Do you have any idea, either one of you, of what the cost of a medical education is today, say, at a private institution or at a State university? It probably is double, triple the cost of the normal education.

Representative CRANE. I would say about $20,000 a year.

Senator PERCY. Right. So we have decided as a matter of national policy that we are just not going to have the children of rich parents, doctors, that student loans should be made to them so that it is a cross-section, so that we can have enough doctors.

As you mentioned in your own statement, Congressman Crane, thousands of future medical students will be denied loans because of the failure of former students to pay back the loans they have received. Do you get the feeling that students are trying to get loans and their parents are fully aware of this situation?

Representative CRANE. No; I don't. That is why I compliment you for bringing this to light and to the attention of the American people. The public should be made aware of some of the horror stories that we have found. You are to be complimented because there will be some who will criticize you for digging up this information. I truly believe that the American people will benefit from these hearings.

Senator PERCY. I want to thank you for one other thing, both of you: For the support that you have provided to asset management. That idea came to me when we found that corporations in deep trouble, particularly my own corporation, when we needed cash, we would look around and see what we could sell off. If you couldn't get the cash and, particularly when you have interest rates of this size, you try to sell off your assets you didn't need; sell off a product line that was a lesser profit line than others.

In the Federal Government, I couldn't see that there was any record of selling things. If those of us serving on the Foreign Relations and the International Affairs Committees receive a gift from a foreign government, we give it to the State Department. I waited around for public bidding to see if I could bid for some of those things. They don't even come up for 6 or 7 years. What if a retailer was in business and sat on their assets that long? [Laughter.] But I really meant it.

Representative DERWINSKI. We don't want any private company to go broke, because then they couldn't pay the Government the taxes which the Government needs to operate.

Senator PERCY. That is right, but here we have these assets that we own, and the rigmaroles to get rid of it, the Department of Defense owns 126 million acres of land, some of it on Waikiki Beach.

I thought Fort De Russsy was a fort protecting Pearl Harbor. It turns out to be sort of a Holiday Inn Hotel. There is nothing wrong with keeping that hotel if it keeps operating on the basis that it has, but why do they need all that excess property that could be sold?

Thank heavens the Secretary of Defense has responded to my letter, and you have had some responses to yours, and he is going to sell that excess property and turn it into cash.

We ought to value all our assets at market value, not what it costs. The White House property is valued at $1,000 in the books of the Federal Government—$1,000. Do you know what land in Illinois, owned by the Federal Government, is valued at? Maximum, $300 an acre; in Nebraska, 57 cents an acre. It is a cost value. Why not value it at market value? That is what we are directing the Government to do.

With your leadership in the House in that aspect, we can collect $22 billion in the next 3 years by selling off unneeded assets. We are

going to have a garage sale and clean out our attic in the Federal Government and turn those assets into cash and reduce the deficit as a result and put that money to work.

Again, I thank you for making the business of Government more businesslike as a result of your efforts.

Would you care to join me up here today?

[The prepared statements of Congressmen Derwinski and Crane follow:]

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HONORABLE EDWARD J. DERWINSKI
BEFORE THE
SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION
AND GOVERNMENT PROCESSES
HEARING ON
THE FEDERAL GOVERNMENT'S FAILURE TO COLLECT
DEFAULTED LOANS FROM ITS OWN EMPLOYEES

I wish to thank Senator Percy and the Members of this Committee for holding this hearing, as well as previous hearings, on oversight of federal debt collection efforts. Your hearings certainly have helped to spotlight the shocking situation we face -- over $240 billion are due the U.S. Treasury, of which some $37.3 billion is delinquent, with an overall default in excess of 15.5 percent.

A small sample of recent audits, testimony before Congress, and other government reports reveal staggering amounts of loans in default:

Health Professional Student Loans:	$30.6 million delinquent or past due
National Direct Student Loans:	$730 million in default
Guaranteed Student Loans:	$1.694 million in default
Law Enforcement Education Program:	$100 million in default
Cuban Student Loan Program:	A default rate of 90%

These examples represent just a few programs, out of a total of 358 loan programs, which are spread throughout the executive agencies. Of these, 204 involve direct loan programs by federal agencies, and 154 are loan programs guaranteed or insured by the federal government.

It is depressing to contemplate the adverse impact of these high default rates on the many deserving programs that are severely constrained by funding shortages, or to think about the many worthwhile programs that could be fully funded with these dollars. Of perhaps greater importance are the negative consequences resulting more indirectly from the situation.

The magnitude of uncollected debts shakes taxpayer confidence in the government and its programs, while reinforcing negligence among the citizen-debtors and furthering the attitude that "You don't have to pay Uncle Sam."

Extensive Congressional hearings have shown that the reputation of federal debt collection efforts for repayment of loans is incredibly poor, and ramifications of being declared in default so minimal, that debtors openly proclaim that they feel no obligation to repay these debts to the government. The collection record of the respective executive agencies responsible for administering these programs has been deplorable, and is exemplified by the fact that even today some agencies experience great difficulty in determining the amount of outstanding debt owed them, much less being able to identify delinquent accounts.

Ideologically "good programs," across a broad spectrum of fields, have been spotlighted repeatedly, in audit after audit, as outstanding examples of nonmanagement. Furthermore, audit recommendations for improving collection activities have been created after thorough Congressional consideration and review. The programs are ideologically sound, address real needs and problems, are intended to correct ills and to rectify wrongs. If abuses are allowed to flourish, they cause the program to come under fire, disrepute and suspicion. The taxpayer expects and deserves correction of abuses and sound administration.

Senator Percy has referred to an example of this non-management that I uncovered and pursued on behalf of the taxpayers. It is just one case that came to my attention. Despite pay increases and merit promotions, this person has refused to pay a just debt that is guaranteed by his employer - the taxpayer. Unfortunately, this is not a rare case. Computer matches by the Veterans Administration indicate that over 80,000 government employees are in default of debts to that organization. Other computer matching of defaulted debtors against government employee lists have

revealed over 40,000 additional employees who are in default of their governmental loan obligations. A government-wide check is planned, but has not yet been implemented.

The situation with regard to the various student loan programs is especially appalling. Many of these programs are set up on a revolving fund basis; as loans are repaid, monies from the replenished funds become available for new loans to present students. The defaults therefore result in depriving currently eligible students of loans that they need. I am not talking about repayment of loans by poor and destitute individuals. The vast majority of the student loan debtors in default that have been contacted by my staff are currently employed in well-paying occupations -- doctors, nurses, lawyers, federal employees, and a host of other professionals. By and large these delinquencies cannot be "rationalized" on the basis of special financial hardships faced by the debtors. Many of these individuals are drawing salaries over $40,000 a year.

However, there is reason to anticipate that federal debt collections may improve significantly before long, since President Reagan has expressed his commitment to an aggressive debt collection program. According to estimates provided by the Administration, over $4 billion might be returned to the federal coffers in fiscal year 1983 alone, as a result of this concerted effort. It is projected that some $1.35 billion of accounts and loans receivable can be recovered solely by the adoption of more aggressive administrative actions by the agencies. To provide a real incentive for stepped-up agency collection efforts (a feature often absent in the past), a $1.35 billion reduction in outlays has been distributed among the agency accounts. If an agency fails to meet its debt collection target, it will experience a corresponding decrease in funding. OMB estimates that agencies could recover an additional $1 billion this fiscal year. However, this potential

savings has not yet been distributed among individual accounts or incorporated in agency debt collection targets, since its realization is contingent upon passage of pending debt collection legislation (along with intensified litigation efforts by the Justice Department). The final component in the Administration's $4 billion-plus expected savings for fiscal year 1983 relates to increased recovery of delinquent taxes by the Internal Revenue Service, amounting to $1.66 billion.

In a recent statement before a Task Force of the House Budget Committee, the General Accounting Office testified concerning the Administration's estimates of savings to be realized through improved debt collection:

> "The debt owed the Government has been growing, but we believe these collection estimates are achievable if the Federal Government commits itself to this effort and if the comprehensive debt collection legislation is enacted. The fact that the Administration has shown its interest by devoting resources to this area and emphasizing debt collection is a good indicator."
> (Hearing on Fiscal Year 1983 Credit Budget, March 12, 1983, p. 51).

The Administration advocates the following changes, which require legislative action by the Congress:

1. Refer delinquent debtors to credit bureaus, while also providing those debtors the same protection now afforded by the private sector under the Fair Credit Reporting Act.

2. Require individuals to supply their Social Security number when applying for credit or financial assistance that would result in indebtedness to the Federal Government.

3. Offset a federal employee's salary and certain benefits, to satisfy general debts owed to the government.

4. Make it a federal penalty to assault federal employees collecting debts owed the government.

5. Determine delinquent tax liability, and seek its resol[illegible] before extending federal credit.

6. Disclose mailing addresses on delinquent debtors, obtained from the Internal Revenue Service, to private agencies under contract with the Federal Government for debt collection.

7. Increase the interest rate charged on delinquent tax to 100 percent of the prime rate (currently 90 percent), and make the adjustment in rates on an annual basis (currently biennial).

8. Clarify that the Administration setoff of delinquent debts owed the government exists beyond the six year statute of limitations.

9. Assess interest on debts owed the government, and penalties on those debts that are delinquent.

10. Ease the requirements for serving summonses, to facilitate litigation of delinquent debt cases.

11. Report to Congress on debt collection activities.

As you know, S.1249, which incorporates all of these Administration-backed provisions, has been reported favorably by the Senate Finance Committee, as well as by Governmental Affairs, and has been placed on the Senate calendar. Let me assure you that we in the House who support such a comprehensive bill eagerly await Senate passage of S.1249.

Unfortunately, House action to date has been of a more limited and piecemeal nature. The Administration's primary debt collection program legislative needs are contained in H.R. 2811, H.R. 4613, H.R. 4614, and H.R. 5471. The House has passed two of these measures: H.R. 2811, which amends the Privacy Act of 1974 to permit a federal agency attempting to collect a debt owed the United States to disclose credit information to a consumer reporting agency; and H.R. 4613, which directs federal agencies to require the furnishing of Social Security numbers by individuals who may incur certain types of indebtedness to the United States, and amends the Internal Revenue Code to revise

requirements regarding disclosure of certain taxpayer information to federal agencies. Committee hearings on H.R. 4614 have been scheduled. But H.R. 5471 remains in limbo, with hearings yet to be scheduled.

The Members of the House are not unaware or insensitive to the need of legislation to correct deficiencies in the loan program. Thirty-two bills have been introduced that address numerous aspects of national debt and debt collection activities.

The four House bills I have previously identified are the essential bills for improved debt collection.

I introduced H.R. 5471 in February of 1982. In brief, the bill would authorize federal agencies to garnish employees' pay for any debts owed the Federal Government. Over 120,000 federal employees are thought to be in default on federal loans. The procedure authorized by H.R. 5471 would institute a simple, fair, and effective collection mechanism for recovering overdue payments from federal employees. It is an incredible affront to the taxpayers that such individuals -- largely in professional positions -- draw generous salaries from the Federal Treasury, and yet refuse to pay their debts to the government. I believe that the taxpayers should not have to endure this deplorable situation -- civil servants should be required to pay their just debts to the Federal Government. I imagine that most federal employees will welcome enactment of such a provision, in order to eliminate the reprehensible behavior of a relatively small portion of their colleagues, which nonetheless serves to tarnish the image of the entire civil service in the public mind.

Moreover, I have gone beyond the scope of remedies contained in the pending legislation, and have made proposals to the Office of Personnel Management to require screening of executive branch employees in order to uncover defaulted

debtors. Additionally, I have requested the Clerk of the House of Representatives to screen all individuals who are paid through his Office for potential defaulters, and have requested the Clerk of the Supreme Court to initiate similar action. I anticipate proposing amendments to H.R. 5471 to expand the provisions of its coverage to all individuals who draw a paycheck from the Federal Treasury. I am looking forward to those hearings, and am eagerly anticipating passage of my bill, and the other provisions of this debt collection effort.

STATEMENT OF CONGRESSMAN DANIEL CRANE
BEFORE THE
SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION
AND GOVERNMENT PROCESSES
HEARING ON
FEDERAL DEBT COLLECTION

I appreciate the opportunity to appear before the Committee today to express my views on the urgent need to strengthen credit management practices in the Federal Government. Senator Percy and Members of this Committee, I want to commend you for your continuing efforts to focus attention on the magnitude of this debt collection problem and the need for leigslative action.

This overall picture of the dire situation regarding inadequacies in Federal credit management was provided by the Office of Management and Budget in documentation accompanying the Federal budget for fiscal year 1983:

> The amount of overdue and uncollected debts owed the Government is enormous. An estimated $33 billion of the $218 billion owed to the Government on September 30, 1981, was either delinquent or in default. An additional $8 billion in loans are in some form of rescheduled or stretched out status because of borrowers' inability to repay. Over $1 billion in bad debts are being written off each year and it is estimated that an additional $8 billion will be written off over the next several years.
>
> This situation has resulted from years of inattention and neglect and from a pervasive attitude that the Government has a more legitimate role in the operation of debt than in its collection.
>
> (Major Themes and Additional Budget Details, p. 279)

A news article appearing last year posed this "waste and fraud quiz" question: "In which program is the federal government losing $10 million a day?" Answer: the debt collection program. According to the data in that 1981 story, the $25 billion then owed in delinquent loans and taxes was costing the Federal Government $10 million a day in interest payments alone. That calculation was apparently based on an interest rate of 12 percent. And the direct interest costs are only the tip of the iceberg. The servicing of these delinquent debts by the Federal Government of course

reduces the general availability of credit at feasible rates for private sector borrowers. Moreover, any situation that contributes to a rising Federal deficit, such as the past noncollection of debts owed the government, impedes efforts at controlling inflation.

Given the past history of mismanagement and inattention to debt collection efforts by Federal agencies, the recent growth in Federal credit activities is truly alarming. According to the General Accounting Office, debt owed to the Federal Government increased 23 percent in the last year. The present default projection is $37.3 billion in 1982, and $42.2 billion in 1983. While many of the 358 separate Federal loan programs (direct and guaranteed) have appealing, humanitarian goals-for example, to provide for individual access to higher education, or to assist communities in meeting a broad range of needs from energy to housing--the rates for default and delinquency on these loans are shocking and unacceptable.

The inadequacies in the Federal debt collection process and the need for improvements have been evidcnt for some time. In the last five years the General Accounting Office has prepared over thirty reports on the subject. Let me refer to some examples:

1. "The Government Needs to Do a Better Job of Collecting Amounts Owed by the Public" (1978). In this report GAO noted that collection of delinquent accounts had been hindered by inaccuracies in accounting for and reporting of accounts receivable, lack of prompt and aggressive collection action, low or no interest being imposed on delinquent accounts, and inadequate provisions or no provisions for uncollectible accounts in most agencies.

2. "Social Security Should Improve Its Collection of Overpayments to Supplemental Security Income Recipients" (1979). Some 3.2 million instances

of overpayment, totaling about $1.5 billion were identified by the Social Security Administration. Of this 1.5 billion in overpayments due back to the Government, GAO reported in 1979 that about $295.8 million had been collected, $148.8 million of collections were in process, about $443 million was waived, recovery efforts on $147.7 million were suspended, incorrectly computed overpayments for about $5.9 million were adjusted, and the remaining $462.4 million (involving over 1.2 million cases) remained unresolved.

3. "Unresolved Issues Impede Federal Debt Collection Efforts--A Status Report" (1980). Here GAO noted that Federal debt collection efforts were not keeping pace with the growing number of debts. On the basis of several reviews of specific programs GAO found that "Federal efforts often were not aggressive and that collection methods were expensive, slow, and ineffective."

4. "Legislation Plus Aggressive Action Needed to Strengthen VA's Debt Collection" (1981). According to this report the amount of educational assistance overpayments on which the Veterans Administration had terminated collection actions mushroomed from about $10 million in June of 1975 to $198 million as of June 1980. GAO suggested that most of the veterans with delinquencies appeared able to repay their debts, but could ignore repayment demands with little or no fear of adverse action.

5. "Stronger Actions Needed to Recover $730 Million in Defaulted National Direct Student Loans" (1981). GAO reported here that this program, begun in 1958, has been plagued by high default rates--about 16 percent overall as of June 30, 1979; as of that date outstanding defaulted loan balances exceeded $730 million.

My personal concern and outrage over the debt collection mess was further heightened when I learned the results of an audit of various medical loan programs, conducted in early 1982 by the inspector general of the Health and Human Services Department. I understand this study had been ordered by HHS Secretary Richard Schweiker in December of 1981, as a part of the overall effort by the department to step up collection of delinquent debts. The auditors found that 59,053 low-interest Federal loans awarded for study in the health professions were at least one year in arrears. These delinquent loans totaled $189 million, for a total delinquency rate for the program of over 20 percent.

With respect to physicians per se, a group displaying one of the highest average incomes of any profession in the country, the HHS audit revealed that some 6,000 doctors are more than a year behind in repaying their student loans. This translates into over $5 million on 6,698 delinquent loans (some doctors received more than one loan). The penalty for late payment on these loans is but $2 per month. The study further discovered that 401 of the 6,000 plus doctors in arrears on their loan payments nonetheless received substantial payments from the government under the Federal Medicare and Medicaid programs. The audit revealed that these 401 doctors, who owed a total of $443,000 on their delinquent loans, received more than $10 million during the last two years from Medicare and Medicaid.

My general indignation as a taxpayer at this state of affairs is compounded by a sense of personal embarassment for the blatant negligence of some of my professional colleagues. Graduate training is a long and expensive process, with tuition at private medical schools in some cases

exceeding $10,000 a year. The availability of loans at rates below those available commercially has provided a critical component in financing the educational expenses of many deserving students in the health professions. But once the schooling is completed, these professionals typically earn a comfortable income. In short, the "deadbeats" identified in the recent HHS audit (particularly the 6,000 or so physicians), in the vast majority of cases, undoubtedly are quite capable of adhering to the prescribed repayment schedule.

Such delinquencies of course deplete the loan money available in the revolving fund for future borrowing by doctors, nurses, and other health professionals. The travesty of this situation is especially deplorable in a time of general budget retrenchment, with sharp curtailment of these and other student loan programs. It has been estimated that in the two health loan programs (nursing loans and those covering doctors, dentists, veterinarians and others), an additional 32,041 students could be assisted if the delinquent debtors were forced to pay their debts.

It should be noted that the law places primary responsibility for collecting the student loans in the health professions on the colleges and universities. But the administration of such student loan programs by many respected educational institutions, as well as by the Federal agencies, has focused on "getting the money out," with scant attention being given to repayment or collection efforts. With respect to the administration of student loans in general, GAO audits and interviews of numerous defaulted debtors have revealed almost incredible shortcomings. Institutions have failed to advise applicants of the conditions for the loans or the repayment terms. Subsequently, they have failed to issue regular bills,

to respond to debtor inquiries, or to take legal action against those in default.

The general conclusion concerning Federal credit management overall, emerging from numerous GAO reports, congressional hearings, agency investigations, and an extensive study by the OMB Debt Collection Project ("Report on Strengthening Federal Credit Management," January, 1981) is that the Federal Government has been appallingly ineffective in collecting its debts.

A variety of factors have contributed to this situation. Lacking any sort of profit motive, agency program managers responsible for overseeing the various loan programs have been largely preoccupied with distributing funds, rather than with collecting them. There has also been the problem of lack of resources assigned to the debt collection function within the agencies, since there has been no real incentive for aggressive efforts. In many instances recovered funds are returned to the general treasury--not directly to accounts for the agencies administering the programs--and oversight from within OMB of the policies and procedures of the respective executive agencies was not very thorough. Moreover, a critical problem has been the inadequacy of agency accounting systems, so that basic data on accounts receivable, delinquencies, and so on often proved elusive or unreliable.

Despite the dismal record which I have described today, I am hopeful that efforts already underway will greatly strengthen the Federal credit management in the near future. Last year President Reagan ordered the heads of all Federal departments and agencies to institute more effective debt collection practices. The Office of Management and Budget is overseeing the effort, and improvements have already been brought about through administrative means. However, changes possible through administrative action alone are not adequate; legislative changes are also required.

The Administration has proposed legislation (S. 1249) that would correct many of the problems associated with the debt collection effort in the past. This legislation removes obstacles to effective business-like collection activities, provides necessary tools for collection, creates incentives for debtors to repay loans, and places direct responsibility on agency heads to insure aggressive debt collection efforts.

I support the Administration's efforts to rectify this situation through the provisions of S. 1249. I am also a cosponsor of Congressman Derwinski's bill, H.R. 5471, which would authorize federal agencies to garnish employees' pay for debts owed the Federal Government. These bills, and numerous other measures addressing this problem are needed to correct the deficiencies in the loan programs.

Collecting outstanding debts owed the government and returning the monies to the programs will ensure the availability of funds and will preserve access to the funds for the many students who are in need of financial assistance.

Senator PERCY. Our third witness, you might say, is an unusual witness, Dr. John Imbert, a dentist with the Indian Health Service in Belcourt, N. Dak.

Dr. Imbert, would you be good enough to take the stand?

Dr. Imbert, together with my colleagues, Congressman Crane and Congressman Derwinski, who are here at the hearing, on behalf of the three of us, we particularly want to welcome you to this hearing.

Dr. IMBERT. Thank you.

Senator PERCY. This is a difficult task for you, and I want to say at the outset that you are here on a voluntary basis. Our purpose in having you here is not to single you out or to embarrass you. We praise you for having the sense of conscience of wanting to do something about it, and then portray a system that caused you to get into the situation that you found yourself in. You have a lot of courage to be here before this subcommittee today as a Federal employee about to tell a story that very few others would tell.

Undoubtedly, your testimony will help us to understand why the Federal Government is such a poor creditor and has such trouble collecting from its own employees. I think we should say the Federal Government is the biggest loaning agency in the world today. These are the practices that are used by the biggest loaning agency in the world. If we were a bank, we would be bankrupt and long since out of business with these practices.

We had arranged to have one other witness alongside you, because I didn't think it fair to have you sit there all alone. Even our two Congressmen sat together. At the last minute, this witness regretfully decided not to appear. I am not going to discuss his case this morning, since he has withdrawn as a witness.

However, I want to make it clear for the record that this individual had voluntarily agreed to appear at the hearing, but decided to withdraw after our witness list had been released. Dr. Imbert, what I would like for you to do is to take just a few moments to describe where you went to school, the amount of the loan you received from the Government, when you joined the Federal Government, and generally the history of your repayment and the circumstances behind your delinquency. After you have done this, Congressman Crane and I may have a question or two.

TESTIMONY OF JOHN IMBERT, D.D.S., BELCOURT, N. DAK.

Dr. IMBERT. Thank you, Senator.

I am a dentist with the Indian Health Service, stationed in Belcourt, N. Dak. I attended the University of Washington School of Dentistry, also the University of Washington undergraduate school. I graduated from the university in 1976. I was employed by the Indian Health Service in 1977. I have been employed with them since that time.

I received approximately $4,650 in health professional loans from the University of Washington while I was a student. I also received approximately $4,000 in Federal insured loans while I was a student there, also. It is true that I am defaulting on my loan at this particular time. I have made some efforts to make repayment in the near future.

I was hired by the Federal Government, as I said, in 1977 as a staff dentist with the Indian Health Service. I am now with the Indian Health Service at Belcourt, N. Dak.

Senator PERCY. I get the impression from many Government debtors they really do not take their repayment of their student loans very seriously. Would you say that repaying your Government loan was a low priority with you over the years and is generally a low priority for many other students that you know of? Did it rank as high in importance to you as, say, your car loan or your home mortgage payments?

Dr. IMBERT. I can't speak for other graduates of medical and dental schools. In my particular case, there was not a great deal of pressure placed on me to repay the loan. I did take it seriously to the extent that it was a debt that needed to be repaid. However, because of my financial situation after graduation, it was not a real high priority to make payments on that loan at the time.

Senator PERCY. Is it a case of only saying the spring that squeaks the loudest is the one that gets the oil; if you know a creditor is going to hound you, make life miserable for you, going to be after you, and the real intent is to get money from you, you respond? I get the feeling the student debtors do not get that feeling that anything is going to happen to them, like a summons in their mailbox, if they do not repay the loan promptly. Did you ever feel any pressure to repay your Government loan, real pressure, that a private collector would put on you?

Did you have a feeling that the Government took the loan seriously—as a bank might a home mortgage?

Dr. IMBERT. From the effort that it took me to get the loans, I would think that the university and the Federal Government took the loans seriously. They were not easy to obtain. However, after graduation, and prior to graduation, I was not counseled as to repayment schedules or the nature of repayment schedules. After my graduation and after a deferral, I taught at the University of Washington for 1 year. I was deferred from making any payments at that time.

I did not followup with anyone at the university at that time about following up with payment after taking employment with the Federal Government.

Senator PERCY. Were you able to get other credit for a car, or home, or credit cards during the period you were in default of the loan? Had the Government been able to adversely affect your private credit rating, report your credit rating, for instance, like any other credit agency would? Would that make it more difficult for you to get private credit? Do you think you would have paid your Government loan sooner?

Dr. IMBERT. To answer the first part of your question, I did not have any trouble getting retail credit for automobile purposes, et cetera, et cetera. I'm sure if there would have had to be more input into my credit standing by the Federal Government resulting from the default of the loans, that may have put additional pressure on the payment.

Senator PERCY. Someone suggested that the Federal Government should not have their right to counsel or discipline an employee who refuses to repay a Federal debt. For example, you may have heard the case of IRS I mentioned in my opening statement. Do you feel the Government—and in your case, your employing agency—had a right to discuss a debt with you when it became delinquent if an

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employee continued to not pay the debt? Do you think the agency should be able to discipline an employe or garnish his wages?

Dr. IMBERT. As the system stands right now, Senator, the supervisors in the Indian Health Service and the Department of HHS are not in the habit of counseling or giving advice to employees at all in such matters. I'm sure that there is probably room for that to be a feasibility. I was never counseled about this issue prior to this.

Senator PERCY. If, for instance, your employer said to you, "Now, look, Doctor, you haven't paid your loan back. You are eligible for a promotion, but we think you ought to pay that loan back. We think you have the capability to do it, and you aren't going to get a promotion until you pay that loan back or set up a schedule to pay it back."

Do you think that would encourage you to pay that loan, if you thought a promotion would have been withheld from you?

Dr. IMBERT. That would have been an incentive, yes.

Senator PERCY. One last question. One of the most disturbing consequences of the Government to impress on young people of the obligation to repay student loans is, as I have indicated before, the general disrespect some of these young people develop for their Government. How has your opinion of the Government been affected by its careless treatment of your loans? Have you been grateful for this unexpected generosity, or has it caused you to lose confidence in the Government to be able to manage its fiscal affairs?

Dr. IMBERT. That is a difficult question to answer. I don't feel that I have lost any respect for any particular Government agency or the Federal Government in general. However, the fact that the issue was taken rather lightly certainly didn't encourage me to volunteer information. Since I left the University of Washington, and went to North Dakota to work, they didn't even know where I was most of the time. Had I not phoned the university for information regarding my educational status, they probably never would have found out where I was.

Senator PERCY. Congressman Crane?

Representative CRANE. Thank you.

I also would like to compliment you for having the courage to come here. I would like to ask you a question. Approximately the figure is $8,600 total Federal loans. Is that what you had borrowed?

Dr. IMBERT. To the best of my knowledge.

Representative CRANE. Approximately how much have you paid back?

Dr. IMBERT. Approximately half of that.

Representative CRANE. Half of that. You mentioned you were deferred for 1 year. Why were you deferred?

Dr. IMBERT. I was working at the University of Washington on the faculty as a faculty member. There was never any reason given. I was told that I was not responsible for paying my loans while I was employed at the university.

Representative CRANE. They told you that. So you didn't apply for a deferment—it was just an automatic deferment for 1 year?

Dr. IMBERT. That is correct.

Representative CRANE. If you had to assess the situation, how would you turn it around so we could start to collect? Is it a lack of concern at the university level in making you aware of your responsibility,

or do you feel, as Senator Percy mentioned, that maybe it is going to take a little more pressure from your employer? Or possibly the withholding of a promotion? What do you feel would be the best approach to try to turn things around so that the Federal Government can start to collect the moneys it is owed?

Dr. IMBERT. I certainly would not want to tell you how to do your job, but I think that probably, had there been more effort made at the student level related to the nature of the loan, what the circumstances were by which you obtained the loan, and what the repayment schedule should be and how it should be managed prior to the student leaving the institution, there may not be so much confusion about it.

In my particular case, I have to admit, there was a great deal of confusion about the repayment of these loans. It was my understanding that there was a 10-year repayment period for health professional loans. It was also my understanding at the time I left the university that there was no hurry to repay this loan; that I did have a period of 10 years after the graduation to see that the loan was resolved. We never did discuss this with any officials at the university, nor did I discuss it with any Government officials at the time I became employed.

Representative CRANE. Would it help correct the debt collecting problem if, at the time the loan was granted, you were given a schedule of repayment stating when repayment would start?

Dr. IMBERT. There should be some clarification there. When I entered the Indian Health Service, it was my understanding that because the area I was serving in was an area deficient in health care delivery, I was automatically deferred. That was my personal understanding about the loan. I was surprised to hear from the university asking for repayment. I was also surprised to hear from the Student Loan Association which had assumed the federally insured loans that I made. I was not aware that this would happen. I was not aware that there was an agency that would collect these debts.

It was my impression that these debts were due directly to the banks from which they were obtained.

What I am trying to say is I think that there should be a little more groundwork laid about securing loans and the repayment of those loans prior to the students leaving the institution.

Representative CRANE. Do you feel the percent of interest placed on a loan could be used as an incentive to pay or not to pay?

Dr. IMBERT. The amount of interest placed on the loan?

Representative CRANE. Does it not influence repayment?

Dr. IMBERT. In my particular instance, it did not. I knew the loans had a very low interest rate.

Representative CRANE. Would higher interest rates have been an incentive to pay it quicker?

Dr. IMBERT. I can't really say that for sure. I really don't think I know how I feel about that. Probably, as a student, when you are scraping around for every dollar you can get your hands on to finish your education, you probably wouldn't care if the interest were 20 percent, if you could get the money. Perhaps the higher interest would make it easier for the Federal Government to collect the loans. I don't think it would have much bearing on the students trying to get the money for school.

Representative CRANE. In other words, on the scheduled repayment, if we had a higher interest—I will call it a penalty—you would try to pay it back a little sooner? I think your assessment is correct; when you are a student you are out to get any money you can to get through school.

Dr. IMBERT. I would think that higher interest rates would make it more difficult for students to obtain the loans. You would probably have fewer students even bothering trying to get loans at higher interest rates. You would have many individuals not trying to get a personal education because of that.

Representative CRANE. I thought you said previously that when you are a student, you don't care what the interest rates are. Once you get that degree, how are we going to encourage you to repay your loan? If we maintain low interest rates, former students will be apathetic about paying it back. If, however, they knew the loan had a high interest rate, would they try to expedite that payment?

Dr. IMBERT. I am sorry, I can't really answer that question.

Representative CRANE. I thank you. I have no further questions.

Senator PERCY. Thank you, Congressman Crane, very much indeed. If you had any idea how many students we tried to contact—former students that have defaulted to testify—you would realize the uniqueness of your appearance here this morning. In our audience is the head of the Public Helath Service, Dr. Whiteside.

Dr. Whiteside, could you stand? Thank you very much. Would you be good enough, Dr. Whiteside, to give me the name of the immediate supervisor of Dr. Imbert at his own place of work and I would like the privilege of sending him a letter telling him what an extraordinary service, Dr. Imbert, you have provided in somewhat embarrassing yourself, but in doing so, for a notable and worthy cause, and we very much appreciate your being here.

Dr. IMBERT. It was my pleasure, Senator.

Senator PERCY. Our next panel will be a panel of four witnesses: Charles L. Dause, assistant U.S. attorney, eastern district of Kentucky; George Williams, assistant U.S. attorney, Washington, D.C.; Robert N Ford, deputy assistant Attorney General, Department of Justice; Kenneth A. Mines, regional director, Office for Civil Rights, Department of Education, Chicago, Ill., and Mr. Keating.

The subcommittee, through its investigation of this matter, discovered four flagrant cases of Federal employees willfully avoiding payment of their Government loans, often long after a court judgment was rendered in Federal court: All four of these debtors were invited to testify at this hearing. All four declined to appear.

The power of this committee is immense. We are an investigating subcommittee which I was, for years, the ranking member of, and we can subpena virtually anyone.

We can release Federal prisoners from prison and bring them here; provide Federal protection here. You know how closely we work with the Justice Department, but we simply did not choose to want to subpena witnesses here.

We will have to hear second-hand about them. We will not reveal their names. It is understandable why they didn't want to come. That is what makes Dr. Imbert's case such an unusually helpful case.

We do not want to embarrass these individuals, in particular. We will not release their names, but their cases reflect a broader problem. I strongly believe that the American taxpayer deserves a full description of the circumstances.

The two assistant U.S. attorneys on this panel will describe three of these cases, and a representative of the Department of Education from Chicago will discuss a fourth.

Together, with Congressman Crane, I welcome you to the hearing this morning.

Assistant U.S. Attorney Charles Dause, would you begin please?

TESTIMONY OF CHARLES L. DAUSE, ASSISTANT U.S. ATTORNEY, EASTERN DISTRICT OF KENTUCKY, LEXINGTON, KY.; ROBERT N. FORD, DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION, DEPARTMENT OF JUSTICE; GEORGE WILLIAMS, ASSISTANT U.S. ATTORNEY, WASHINGTON, D.C.; KENNETH A. MINES, REGIONAL DIRECTOR, OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION, CHICAGO, ILL.; AND FRANK KEATING, U.S. ATTORNEY, NORTHERN DISTRICT OF OKLAHOMA, TULSA, OKLA.

Mr. DAUSE. Thank you, Senator. It is certainly a privilege to be here.

As an assistant U.S. attorney, I am one of the many individuals across the Nation who, you might say, is the frontline of the battle to attempt to collect moneys due to the United States.

Senator PERCY. I might say from that front rank, I chose Governor Thompson to be U.S. attorney, and then he became Governor, an unknown U.S. assistant U.S. attorney, so you have got a great future ahead of you. [Laughter.]

Mr. DAUSE. I certainly hope that is true, Senator. [Laughter.]

When I was first assigned the task of collecting moneys due to the United States in my particular office, which is the eastern district of Kentucky, I assumed that the collection of moneys from Federal employees would be something that would be fairly easy to do.

Much to my surprise and chagrin, once I delved into the matter, collecting moneys from Federal employees is, in fact, probably the most difficult single collection activity that we have—far more difficult than collecting from any person who is in the private sector.

I frankly was quite amazed at the United States, which is relatively helpless and impotent in dealing with people who, on a regular basis, receive money from the Federal taxpayers.

As you very well know, Senator and Congressman, garnishment or offset of wages is the single most effective and efficient method of collecting moneys due any creditor, not just the United States, but any creditor.

It is a very cost effective and time efficient method of collecting moneys and does not involve the numerous problems that are involved in other types of involuntary collection of moneys.

Again, as you know, the problem of collecting the moneys due the Federal Government from Federal employees is a lack of specific statutory authority for the Federal Government to affect those offsets.

Most Federal agencies follow the general principle that the Senator outlined in his opening statement which is to offset against wages, but it simply cannot be done.

The two cases that I want to describe to you, I think, illustrate these problems very well. They are cases that involve what I would term garden variety Federal employees: They are not people in high positions; they are people who work in the everyday duties that are necessary in the conduct of the affairs of the United States.

To my right here, are charts which set up the two cases, the facts of the two cases that I have been working on. I think they do have some common elements.[1]

First of all, obviously, they involve Federal employees. One of these cases, Case No. 1, involves a person who is not only a Federal employee, but is also a retired Air Force veteran.

This individual is receiving, on a regular basis, two checks from the Federal Government—a double dipper, I suppose you could say.

Senator PERCY. I wonder if the staff would be good enough, now that Congressman Crane and I have seen both of these, to turn them around so that those out in the hearing room could see themselves.

Have you been able to see the second one?

Representative CRANE. Yes.

Senator PERCY. Thank you.

Go right head, please.

Mr. DAUSE. Another common factor in these two cases, and I think in most cases that you will find, is that the debts that you are talking about are not of unusually large amounts.

In one case, we are dealing with a debt which has a principle of $5,700, and in the other one, we are dealing with a debt of about $1,200.

The significance of those relatively small amounts is that for a time and cost-effective measure of collection, a simple method of collection is needed. To go through the protracted process of litigation and collecting the moneys by other involuntary means simply is not cost effective when we are talking in terms of these sorts of dollars.

Another common element in the cases is the time that was involved in the pursuit of the debts that are due. In both of these cases, the Federal employee defaulted several years ago. In both of these cases, administrative efforts by the agency holding the debt were made for a period of a few years.

In both cases, these matters were referred to our office in the eastern district of Kentucky in 1980. In both cases, it took approximately 1 year to obtain judgment. That time period is something necessitated by the speed with which the court process operates.

In both cases, judgments had been outstanding for a time period exceeding 1 year. In both cases, these individuals had been frequently contacted to make voluntary efforts. Their superiors in their government services had been contacted to encourage them to make voluntary efforts to repay.

In both cases, the debtor would not comply with the request for voluntary payment. In both cases, requests were made for offset. In both cases, those requests were not honored.

In one of these cases—it involves the Department of Agriculture person—offset had been conditionally granted; there is no final definitive answer on that, as yet.

The time period that is involved in this, as both of you gentlemen have pointed out in your testimony and your comments today, is

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[1] See p. 5.

something which takes from the Federal Government the moneys which could be used for other sources, and in addition, takes from the Federal Government the return on moneys which should be due it.

Both of these cases involve low interest rate obligations. Neither of these cases has an interest rate which would in any fashion compensate the Federal Government for the interest that it pays on money that is due it, and the time period is unnecessarily prolonged for collection by virtue of the fact that we have no effective process of offset against wages.

Senator PERCY. Thank you, very much, indeed.

Now we have Robert N. Ford, Deputy Assistant Attorney General, Civil Division, Department of Justice.

Mr. FORD. Thank you, very much, Mr. Chairman, for having us here today.

I have submitted a prepared statement, so I would not take the committee's time with remarks at this time except that I would like to point out that we have accompanying us this morning Mr. Frank Keating, on my extreme left, who is the U.S. attorney for the northern district of Oklahoma.

In Tulsa, Okla., Frank serves as the chairman of the Attorney General's Advisory Subcommittee on Debt Collections. We were able to reach Frank on vacation late last week and get him in here because we thought, perhaps, his views from having talked to all of the U.S. attorneys around the country about the debt collection problems might be beneficial to this committee.

If you have any questions, I would be happy to respond, but Mr. Keating is out with Mr. Dause in the field and with Mr. Williams and Mr. Mines, and I think between the group of us, we might be helpful to the committee.

Senator PERCY. Thank you, very kindly, Mr. Ford.

George Williams, assistant U.S. attorney, Washington, D.C.

Mr. WILLIAMS. Thank you, Mr. Chairman.

The Case No. 3 that is on the board is the case that came to my attention in 1979. This involved an individual who defaulted on a series of student loans, aggregating $4,000 in about 1973.[1]

In 1978, the matter was referred to the U.S. attorney for the southern district of Virginia, where I was then assistant U.S. attorney, to attempt to collect that money. Our collections organization within that office made the usual attempts such as demand letters and so on, which were unsuccessful.

Senator PERCY. Congressman Crane, would you mind taking the Chair for just a moment? I have an emergency call. I will be right back.

Mr. WILLIAMS. It was then brought to my attention after some period of time that one of the lawyers would have to get involved because our nonlegal staff wasn't getting anywhere with this case.

We filed suit and had considerable difficulty getting service on the individual. Marshals made about five or six efforts to go out and locate the individual and serve him.

I highlight this point because this is another matter involving considerable Federal expense. Just sending a marshal out to find somebody gets quite expensive after awhile, and it is also time consuming.

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[1] See p. 6.

When he was served, we got a default judgment that the individual would not answer the complaint. After we got the judgment, we again sought, by letter, to induce the individual to make some arrangements with our office for payment of the debt either in its entirety or by installments, and we had no response.

Discovering that the individual was an employee of the Department of Education, I then contacted the Department of Education and sought their help in attempting to get this employee of theirs to pay the debt which he owed the Federal Government.

I outlined to them several options that they had in trying to collect this money, including counseling him, possibly taking disciplinary action against him if he made no effort to pay this debt, and I suggested at the time that there was the possibility of an offset.

We had a judgment, and there was some legal problem with affecting an offset against a Federal employee's salary. That whole issue was under review by the Department of Justice at that time, and there was some legislation pending in the Congress that might help us out, but it had not yet come to fruition.

The Department of Education did bring the individual in; suggested to him that they might take some disciplinary action against him if he did not make some effort to resolve the debt that he had.

At that point, he contacted me. I asked him to fill out a form which we use routinely to find out what kind of income and assets an individual would have. I noted when I received this form back from him that he was making payments on an $18,000 automobile loan.

I spoke with him again by phone and told him that it would be intolerable for him to continue making payments on an $18,000 automobile loan and pay nothing to the Federal Government; maintaining the status quo would not be acceptable, I told him.

I made one appointment for him to come in and speak with me about settling this debt. He did not keep the appointment.

I had a message that he had called in and said he would be unable to be there because he was going to a doctor's appointment. I made attempts to reach him again. I finally reached him by phone. He told me that it would be difficult for him to set up another appointment because of the press of his government business.

I told him then that I would make arrangements to meet with him at any time, at any place, at his convenience in the evenings, on weekends, in order that I wouldn't interfere with his business.

He then made another appointment with me during business hours for a couple of weeks later. That appointment was not kept.

At that point, after further consultation with some of my colleagues in the Department of Justice, we asked the Department of Education if they would attempt to offset this gentleman's salary.

We were aware of the legal problems involved with doing that. We thought that under the circumstances, where we already had a judgment, that our legal position was one that was arguable if we had to go to court, but it was not one that we were certain about because of some opinions that the GAO had made.

The Department of Education did offset his salary. Shortly thereafter, he was in my office trying to work out a way in which he could make payments on a smaller amount that was being taken out of his

salary. We did enter into such an arrangement where he would begin paying $150 a month on his outstanding debt. He wanted to make these payments by check. I told him that would be unacceptable in light of the history of this case, that I would only agree to stopping the offset if he would agree to have an automatic allotment from his salary of $150 a month. That has been in place for some period of time.

It is not paid off, but the allotment continues to be paid at the rate of $150 a month.

Congressman Crane, I wanted to comment on your question that you raised earlier about the question of interest and whether this would encourage people to pay off the loans if, for instance, there were a larger interest on the Government loans. My experience in collecting these Government loans is that in general, the loans owed to the Federal Government, debts owed to the Federal Government, are usually last in priority among debtors to be paid. One of these is largely the question of interest. Usually, the interest on these Government loans is quite low, and naturally, one of the collection techniques that is taught to all of us in the U.S. Attorney's office is that we ought to encourage people to take out loans to pay the loan that they owe the Federal Government, that the Federal Government ought not to be the lender of last resort in these kinds of cases.

But it is impossible to convince somebody to get a loan from a financial institution to pay off the Federal Government when the interest rates are so substantially different. The interest rates on the Federal Government loans and interest rates involving judgments that the Federal Government will obtain against somebody are considerably lower than the individuals could get anyplace else. There is really very little incentive on the part of debtors, whether Federal Government employees or not, to pay off their Government loans because the interest rates are so low compared to interest rates elsewhere.

Representative CRANE [Presiding]. These loans are made to students so they can better their skills. Do you think, then, once they receive their degree, that increasing the interest rates each year would stimulate them to repay the loan?

Mr. WILLIAMS. That would undoubtedly be a stimulus, or if there was some way to peg the interest rate to interest rates in the economy generally, or maybe to possibly peg it somewhat above the interest rates in the economy to provide the necessary incentive to pay off the Federal Government debts.

Representative CRANE. The maximum penalty today is $2 a month on student loans? Isn't that what the health loans are? I find it somewhat appalling that $2 a month is the maximum penalty for delinquent loans. I think your assessment is absolutely correct: What is $2 a month to the average guy? I thank you. I think we are going to jump over to Mr. Keating; is that correct? Do you want Mr. Keating to testify next?

Senator PERCY. That would be fine.

Mr. Keating, you have indicated you are a U.S. attorney from Oklahoma.

Mr. KEATING. Mr. Chairman, and Congressman Crane, as you may be aware, the U.S. attorneys have what they call an advisory committee to the Attorney General, which is an executive committee. I am

vice chairman of that group and the chairman of our debt collection effort to the U.S. attorneys. Most of the efforts in collecting Government debts such as this are, if not exclusively, U.S. attorney efforts. At our meeting in my home town of Tulsa some months ago, we unanimously endorsed your bill, Senator Percy, as members of this subcommittee, because we feel this bill would be of maximum benefit to us in our work, and our work is the work of collecting the debts of the U.S. Government, in addition to putting away criminals.

There are two measures I would like to very briefly mention about your bill, Senator Percy, that we feel are extremely beneficial to use. One of them, of course, is the garnishment feature. As previously has been testified to, we have found, and I had found from my experience in my office, that this is a most effective tool. The postjudgment phase probably results in the collection of 45 to 50 percent of the money that we bring in.

In the year that I have been U.S. attorney in the Northern District of Oklahoma, in Tulsa, our collections have increased from five to six times because we have emphasized this postjudgment phase, where in the past it was a very common practice of Federal agencies merely to take judgments and do nothing with them, merely file them of record. Obviously you don't get any money if you merely file a judgment of record. But we uniformly execute, we uniformly garnish, we uniformly bring in debtors for assets hearings. But with respect to Federal employees, the garnishment feature is not available, and if all the individual has is a salary and a heavily mortgaged automobile, then it is obvious that you are going to get absolutely nothing. So we feel the bill as presently pending before the Congress, which would permit garnishment of Federal employees' wages, is an extremely beneficial feature and would be very helpful to us as U.S. attorneys. Additionally, the service permitting service of process by certified, registered mail is absolutely essential for the effective collection of the Government's debts.

At the present time, according to the Federal Rules of Civil Procedure, we can use State law in the handling of these claims. Fortunately, in Oklahoma, we can use registered and certified mail. If we couldn't use certified mail, we would be absolutely lost, because the marshal service, as certainly the Members of Congress are aware, has, in addition to the arresting of criminal defendants, the protection of the judges. It is extremely difficult for them to chase down every debtor, every person sued by the U.S. Government. It is a long process.

So this bill, in giving us this additional tool, where a State does not have that tool, to service the service of process on the individual by certified mail is extremely important and extremely vital if the Government is to collect its debts. That, in a nutshell, is my statement. I am sorry I don't have a formal statement. I was a last-minute dangling participle here. But those are two features, Congressman Crane and Senator Percy, that we think, if your bill passes, we will be able to do our job with.

If it doesn't pass, it will be extremely difficult.

Senator PERCY. I thank you very much indeed. You apologized for not having a formal statement, but you were very, very helpful, indeed.

Our final witness is Kenneth Mines, regional director for civil rights from the city of Chicago, I should add. I remember one of the earlier calls I had from Mayor Burns. I think it came in on a Saturday

morning. She was concerned that the Internal Revenue Service was after Chicago and was going to close them down and do something like that because they hadn't made some payments that were due and the city was broke.

We had to get the Commissioner to extend the debt and roll it over for 3 or 4 months until the city could get the money back. They were really after the money, going right after the city of Chicago. I think it was withholding the moneys that were due and payable, and the city just simply didn't have the cash. We all know that every, every business, the last thing they do is not pay Internal Revenue Service withholding taxes on employees. They mean business, and they are in business, and they run it like a business.

The IRS are right out in front, generally, in collecting, but the others are not. You might say, "What are you doing for Chicago lately?" Governor Thompson and I were very happy to announce yesterday a $107.9 million grant for housing and public service improvements for the city of Chicago. Now you tell us how we can get some of this money back and repay it to the Treasury with some of the loopholes we have got in debt collecting.

Mr. Mines, we are happy to have you with us.

Mr. MINES. Mr. Chairman and Congressman Crane, I appreciate the opportunity to participate in this hearing which is examining the collecting of defaulted loans from persons who are currently employed by the Federal Government. My testimony will be limited to one such person employed by the Office of Civil Rights, the Department of Education, in the Chicago regional office. I have been the regional director of that office since 1972.

In view of the necessity to protect the identity of this employee and the confidentiality of certain information, I will briefly outline the pertinent facts in this case and avoid, wherever possible, identifying information, yet at the same time being able to explain the background to those at this hearing.

At this point, I wish to apologize for not having a final statement prepared. I received some information late last night which required extensive revision. With your permission, Mr. Chairman, I would like to submit this for the record after my testimony.

Senator PERCY. Yes. For all of you, by the way, we will keep the record open for 72 hours so that anything you want to add to the record or correct, you can.

Mr. MINES. The information that I am providing in my testimony came to me after I was notified of the problem. The employee involved received a Defense student loan for the purpose of financing his full-time professional education at a major mid-Western institution or university. It was my understanding that the loan was in the total amount of approximately $4,500 and that payments were disbursed beginning in August of 1972. This person was taught by the institution on the semester or an annual basis.

These disbursements by the university continued until his graduation in 1977, and repayment of the entire loan or the initial installments were due for payment in November of 1977.

The person involved commenced employment with the Office of Civil Rights on May 20, 1979. He assumed the position of an attorney/advisor under the general schedule GS–11. At the time, his salary was

approximately $19,531 a year. On the basis of satisfactory performance, the employee was promoted, on June 1, 1980, to the GS–12 level with a per annum salary of $24,703. He received his last promotion on the basis of satisfactory performance on July 12, 1981 and currently is receiving a salary of approximately $34,300 per year.

This grade level that he has obtained, the GS–13, completes the career ladder in his occupational category within our office. Prior to his employment with the Office of Civil Rights, this person had undertaken positions of employment in the private sector, and the work record indicates that he was employed on the date the loan was scheduled for repayment, or at least the initial installments to be repaid after graduation. In recent conversations with this employee, I was informed that he had experienced personal difficulties, including an uninsured medical bill, which was occasioned by extended hospitalization of an infant son in a postnatal situation.

He also indicated that he attempted to obtain a loan from financial institutions in the Chicago area, but because of the credit rating which was maintained by the Chicago credit bureau, he was unable to get it, because he was in default of a loan and also, at that time, had a judgment debt against him. The employee also indicated to me that he had several discussions with university officials in trying to work out arrangements for repayment of the loan and that he advised them of his efforts to refinance his obligation.

However, on December 27, 1979, the university filed suit against the individual, and judgment was entered in the circuit court of Cook County on July 22, 1980. The employee also alleged that the fact that this judgment debt was entered against him, in Cook County, further hindered him from obtaining financial help from a lending institution to repay the loan.

With respect to the notification of the Department of Education, our records indicate that the employee was notified on May 20, 1981, and again on July 14, 1981. These communications to the employee urged him to work toward resolving his debt obligations and referred to the Department's policy regarding indebtedness.

This policy provided that employees irresponsibility including, for example, neglect of a financial obligation, may account for grounds for disciplinary actions. The Labor Relations Office also had a meeting with this employee on several occasions. I wish to inform the subcommittee that I initiated three meetings with the employee after becoming aware of the problem. The purpose of this meeting was to advise the employee of not only his legal but his moral obligation to pay his outstanding obligations. I also discussed what were the problems and the difficulties.

We discussed possible solutions and proposed agreements for the payment of the judgment debt. The first meeting was held on September 11, 1981, wherein I advised him to make arrangements with the attorney representing the university and suggested very strongly that we even meet with the attorney and work out an acceptable method of payment on the judgment debt. I met with him on October 30, 1981, as a followup to our previous discussion, and was advised he had made arrangements with the attorney to pay $25 per pay period for 6 months and $50 per pay period until the debt was discharged.

I contacted the attorney representing the university, and he concurred that arrangements had been made.

However, I was informed by the attorney that this employee defaulted on the arrangements to pay the judgment debt. Therefore, I contacted the employee. At that time I notified him that he had defaulted, and that I was aware of it. At that time he advised us that he had filed a chapter 13 plan under the Bankruptcy Reform Act of 1978. Subsequently, the employee confirmed to me that the chapter 13 plan was approved and he commenced payment to the chapter 13 trustee on June 22, 1982.

Included in the chapter 13 plan was the judgment debt included in this matter. As the loan was an unsecured loan, it does not, as you know, take preference. Therefore, chapter 13 allows him, first of all, to catch up on any mortgage for a period of 24 months under the local rules, and that an unsecured loan can be paid off at a lower rate, and in this instance, I understand at 10 percent of the fair market value of the debt or the property.

Currently, the university will receive 10 percent of the total amount due under the chapter 13 plan.

This ends my testimony, Mr. Chairman. I certainly will be happy to answer questions from you and from Congressman Crane.

Senator PERCY. Thank you very much, indeed. Because Congressman Crane may have a vote coming up in the House, I would like to yield to him at this time to complete any questions he would like to ask.

Representative CRANE. I would like to address a question to Mr. Mines from my colleague, Mr. Derwinski, who had to leave. He wanted to know, have you done anything to force this individual? You mentioned you encouraged him in various meetings to pay back that loan. Did you mention dismissal, or a lack of promotion, or have you said any harsh words along those lines?

Mr. MINES. Congressman, my first notification of the problem of his failure to pay this debt was brought to my attention after his last promotion, so there has been no promotion subsequent to that.

Representative CRANE. Does he have an efficiency report of some sort?

Mr. MINES. Yes, they call it the general performance appraisal system. I think the final rating will be in October of this year. The problem facing Federal managers in the region and what, in my view, we should do when an employee demonstrates bad faith is not being able to bring it to their attention even when our personnel office was notified.

I did not find this out until Congressman Derwinski contacted our Department, and subsequently I was contacted. I took immediate steps. I'm not certain, Congressman Crane, what authority I would have to take any disciplinary action based on the problem I find that Federal managers have in attempting to initiate adverse actions.

The burden is on us. We have to provide extensive documentation on the counseling, and what we have done to rehabilitate employees. The procedures and timeframes are such that sometimes it is a way of succinctly indicating so that if you fail to notify them in 30 days and you notify them in 31, you have to start the process over again. Basically it is instructing them on their moral obligation, but you are subject to a grievance which can be filed if you don't thoroughly document this.

Representative CRANE. What about the possible dismissal of such an employee?

Mr. MINES. I am not a thorough expert. I would refer that to my personnel office, but would seriously question my authority or ability, let us say, to dismiss that employee if I could not show that his debt obligations or failure to pay his debt obligations were directly related to his poor performance.

Representative CRANE. You are saying your hands are tied and he can go free? Are you saying that when he has defaulted again after you have rescheduled his loan? Incidentally, you mentioned originally $25 in a pay period and then $50. Is that in a month?

Mr. MINES. There is generally two pay periods in a month. It is every 2 weeks, so it come out to approximately $50 a month.

Representative CRANE. $50 a month total?

Mr. MINES. Under the financial arrangement.

Representative CRANE. So there was approximately 7 years for him to make arrangements to pay this debt?

Mr. MINES. That is correct.

Representative CRANE. And he first took that loan out in 1972?

Mr. MINES. I think 1974 was the first payment. It was part of a financial aid package for the student, so part of it was national defense loan, others may have been DOT grants and so forth.

Representative CRANE. What I find very difficult to believe is that the gentleman is making $35,000 a year, right?

Mr. MINES. Currently.

Representative CRANE. And here he is denying his responsibility to repay his debt. I feel that the only alternative is to find some way to dismiss him if he is not willing to fulfill his responsibility.

Mr. FORD. Congressman, may I comment on that for a minute?

Representative CRANE. Sure.

Mr. FORD. Frank, or one of the other assistant U.S. attorneys, may be more knowledgeable than I am, but it is my understanding that once a person enters a chapter 13 bankruptcy, we would be violating the law if we in any way tried to intimidate a person to pay that. It is under the bankruptcy court's jurisdiction. So in addition to whatever Federal personnel restrictions we would have, once they get into the bankruptcy situation, there is not much we can do to them.

Representative CRANE. As I understand it, this gentleman was in default 2 years prior to declaring bankruptcy, and I feel that that individual should have been dismissed then. If a person does not have the integrity to fulfill his responsibilities he does not belong on the Federal payroll. Maybe we ought to change those bankruptcy laws, too.

Mr. FORD. Don't misunderstand me. I am not necessarily testifying in support of them. I am merely pointing them out. It is sort of free legal advice.

Representative CRANE. We have tied your hands. I find it frustrating that we have a gentleman making $35,000 a year and there is no way to get back the money he owes the Government.

Mr. MINES. One of the problems, also, Congressman, is the respect of Federal managers. We are not notified. There is no way of matching the employees' names up with default loans. The only way it came to my attention was by contact with a Member of Congress. Perhaps if I had known about it, we could have made some arrangement, but it was after the fact.

Also, this employee had a good faith agreement to pay the debt and then subsequently made the chapter 13, and I thank the counsel for the assistance, but I would be hard pressed to take any additional action.

Representative CRANE. I thank you. I am going to have to run. I will turn this over to the chairman. Thank you very much.

Senator PERCY. Thank you very much, indeed. We really appreciate it.

I might have a few questions of you, Mr. Dause. In the statement, you describe the debtor declining to release his retirement pay as well as his pay from the General Services Administration. Are you telling us that this individual who has been in default on his Government debt for 4 years is getting two paychecks, courtesy of the taxpayers of this country, twice a month, yet there is no way we can touch his pay without the debtor's permission even with a court judgment, is that correct?

Mr. DAUSE. Yes, Senator. That is correct.

Senator PERCY. As a prosecuting attorney, how does this make you feel pursuing these default cases when you have your hands tied that way?

Mr. DAUSE. Senator, like any other type of work, you are more interested in, more ambitious in pursuing and have greater creativity when you see a likelihood of success, and when your hands are tied in this sort of situation, it makes it more difficult to pursue.

Senator PERCY. Mr. Williams, in the case that you described, the debtor claimed he was unable to repay his loan after the court judgment ruled against him because of financial hardship. Yet this debtor is making in excess of $35,000 per year and purchases a rather expensive automobile while claiming his financial hardship. Do you know how much he happened to spend on the car?

Mr. WILLIAMS. I'm not sure of the total amount spent on the car, Senator, but the loan taken out on the car was for $18,000. It was a Porsche automobile.

Senator PERCY. An $18,000 loan?

Mr. WILLIAMS. That is correct.

Senator PERCY. And you generally can't borrow 100 percent. You have to make some payment. I would guess it might be in the neighborhood of $20,000?

Mr. WILLIAMS. I assume it was in excess of $20,000.

Senator PERCY. Yet he claims financial hardship and he can't pay back the Federal Government for his own loan. Do you happen to know what kind of a car it was?

Mr. WILLIAMS. I believe it was a 911 Porsche.

Senator PERCY. A Porsche. How can he say that he couldn't afford to pay off the $4,000 student loan when he can afford roughly a $20,000 Porsche?

Mr. WILLIAMS. He might say it, but he couldn't convince anybody. He didn't, indeed, convince me. I told him, "I couldn't sit here and represent the taxpayers and let you continue to pay that kind of money to pay off this automobile loan and not pay the Federal Government."

I urged him that if he were so strapped, that he ought to sell his automobile, and then that he would be able to pay back some of the money that he owed the Federal Government.

Senator PERCY. I think, Mr. Mines, I could take you to a couple hundred or thousand students at Carbondale, Ill., who cannot afford any car. In fact, there are many University of Illinois students who would like to have a $4,000 loan. Certainly, there are many University of Illinois graduates who would like to have a $35,000-a-year job with the Government. What are we going to tell these students, that the Department of Education employee has all three of these things and still cannot afford to repay his loan? What kind of an answer can we give?

Mr. MINES. Senator Percy, I don't know. It is hard to explain to anybody, especially when they have been denied a loan to further their education. I think that the Department will be looking at their processes to see what we can do to reverse the situation.

Senator PERCY. We talked to some of these debtors. We didn't want to just have your testimony, not that we don't feel that is the first line of defense out there, but we would also like to get a feel for them. This particular debtor told our staff last year that his rights, he felt, had been abused by the Federal Government. He said his rights had been abused. Yet, when we asked him to appear at this hearing, he declined to appear.

Do you think his rights were abused, or do you think it was the other way around? Would you agree with me that we need to do a little more, be a little more concerned about the rights of the taxpayers and the rights of present and future generations of students who need loans to complete their education?

Mr. MINES. Mr. Chairman, on or off the record, I would never agree with you. [Laughter.]

Mr. WILLIAMS. Senator, there is no question that there has been a serious imbalance of the rights in many of these cases. I think for too long their rights have been too far tilted in favor of those who owe the Federal Government money and against the taxpayers.

Senator PERCY. Mr. Ford? Yes?

Mr. FORD. If I may, Senator, I think the answer to the students is exactly what the chairman is trying to do through this legislation. We are trying to cure the problems and make the Government a more responsible financial manager so that the situation will not exist in the future.

Senator PERCY. Mr. Ford, if you could take a look at this flow chart, that shows what an immensely complicated procedure just one agency, the Veterans' Administration, has to follow to collect an overdue loan from just one of its employees, you probably can share their frustration with these cases.

Would you agree with me that we simply have to develop a simpler and more streamlined way of pursuing these cases?

Mr. FORD. There can be no doubt, precisely, and I think the thrust of the legislation we are discussing today, the administrative offset, is probably the single most effective collection method that you can legislate.

Senator PERCY. Let me just be personal before I ask the final questions, Mr. Mines.

The frustrations that we sometimes run into, I took my naval training beginning in World War II, and was sent down here for 1 year for—I went to the naval training units. I had 1 year duty in

Washington assigned as a fire control officer, gunnery officer to a fire control division, at the ordinance of the U.S. Navy.

I was an ensign at the time, but I was given a command. I came out of industry and had been in defense contracting for Bell & Howell. I had some experience there, and I was given a fairly good sized department. I inquired around among the employees as to who the good ones were, in their judgment, among their peers; who were the outstanding ones that I could really count on, and then who the deadbeats were. Universally, by their own people, there was one deadbeat; they said he was the most shiftless, lazy, no-count person they have ever worked with. "He doesn't assume responsibility. He comes in late. He leaves early. He just won't make decisions, and he is just worthless." I interviewed him. I looked at the quality of his work, and I said to him, "Young man, if it is the last thing I do, you are going to be fired." He just looked at me and smiled. I had left a year later, having gone through the boards, the appeal boards, the reappeal boards. So far as I know, he must still be around. [Laughter.]

I congratulated him when I left. I said, "You have the system, you know the system, and that is the one thing you do know; congratulations, the system has beat me." And I was shipped out. I thought of that a lot as I came into Government. It helped inspire me to be a sponsor of the Civil Reform Act of 4 or 5 years ago giving the power to the entire Federal Government and all supervisors to fire people and cut short that long circuit we had here and then to pay awards and bonuses to people at the top level, and we are extending that system just as far as we can of awards and incentives, but we still, in this area, are back in the stone age, and we are right back where we were. Our hands are absolutely tied, and that is why I dare, with such a vengeance and deep meeling, to attack this problem to put weapons in your hands that will enable you to cut through and not waste so much of your time.

Mr. KEATING. Mr. Chairman, may I make one brief comment?

Senator PERCY. Please.

Mr. KEATING. These are horror stories—there is no question about that—but they are not illusion, as applied to the general public, as well as to certain instances of Federal employees.

In my polling of U.S. attorneys, we were given literally dozens of examples, probably five from each district, which were unusual cases of lengthy, drawn out procedures where the Government simply doesn't get or cannot get its money. It is not unusual to see this problem.

The difficulty we have is that most of these cases are given to us when they are 5 years old. As you know in private industry, if you are attempting to collect from an individual who owes you money and that person you haven't seen for 5 years, the chances are you don't know where he is living; you cannot find him; you have no remote notion of whether he even has a job. It has been maddening to us to get these things as late as they come and then, of course, in the Federal System, not having a service by certified mail procedure, to have to spend months more attempting to have a marshal locate this individual.

Chances are, Senator, by the time you get him, the statute of limitations has run or it is darn close to running. That is a very irresponsible way to attempt to collect the Government's debts.

I am just amazed and, I think, Mr. Ford would agree with this: The first 7 months of this year, the U.S. attorneys had collected in excess of $100 million.

Mr. FORD. In cash.

Mr. KEATING. In cash. It is amazing we can do it with the horrible cases that we see day in and day out like this.

Senator PERCY. I thank you for that comment.

Finally, I would like to come back, then. I suppose, Mr. Mines, you could have taken any one of a thousand cases that you could have found in Chicago, but you did concentrate on one particular case.

When did you first become aware of the default of your employee, and when you did, what did you say to him, and what was his response?

Mr. MINES. I first became aware of the employee's default in the early part of September 1981, and my first meeting with him was September 11, 1981. I advised him that I had been contacted by the Assistant Secretary for Civil Rights, reminding him of his obligation as a Federal employee to take care of his honest debts, and I made him agree to contact the attorney representing the university to work out arrangements for making payment.

I indicated to him that failure to exercise good faith could lead to disciplinary action, but that I relied on his integrity that he would take care of his debt.

Senator PERCY. On May 8, 1981, the attorney prosecuting this case on behalf of the university first wrote the Department of Education informing him that he had obtained a Federal court judgment of the debtor more than 1 year before and that the debtor was an employee of the Department of Education. As I understand it, on July 14, Miss Cynthia Soltes wrote the attorney we have again contacted the employee and trust that he will make satisfactory arrangements with you. It was not until November of last year that the debtor began making some payments, $250 in all, $250 on his $5,000 debt. Just one question with regard to this: What action was taken?

Mr. MINES. If I may make a statement to clarify the record, Miss Soltes is not a member of my office. She is a member of the personnel office and is really employed by the Department of HHS, Department of Health and Human Services.

Under a service contract, they provide services to the Department of Education. On that July 14 date, she advised the employee—and this is all without my knowledge—that they still viewed the problem as a personnel matter between you and the creditor and would take no action at this time, so that the personnel office did not initiate any action, nor did it even advise me that they had been notified. That is because of some more strict limitations on protecting the confidentiality of personnel matters and procedures.

In many instances, the Federal manager is not even advised of matters going through the personnel office, so that to be more responsive, no other action was taken except by constant reminders from the personnel office until such time as I was notified through the Secretary of Civil Rights.

Senator PERCY. What if it were true that this particular debtor received two promotions from the Department of Education since 1979, one in 1980, from a GS–11 to a GS–12, then another in the summer of 1981, to a GS–13?

What this means is that he has not only got his job from the Government while in default, kept his job while not repaying the loan, but received promotions while thumbing his nose at Uncle Sam, and not one promotion, but two.

Instead of promoting him, why didn't you just try to fire him?

Mr. MINES. Senator, both promotions were based on an acceptable level of competency in performing the legal work required at the office and demonstrating the ability to perform the next level.

On both occasions, both the June 1 promotion to a GS–12 and July 12, 1981, to a GS–13, were made prior to any knowledge on my part that there was any problem whatsoever with respect to this employee and a judgment debt entered against him.

In other words, I was unaware of this matter whatsoever and it had never been identified even by the personnel office.

Senator PERCY. But the second promotion was after the Department of Education knew of the default, was it not?

Mr. MINES. After the Department had been notified, but not me.

Mr. FORD. Mr. Chairman, if I may, please, sir?

Senator PERCY. Please.

Mr. FORD. You mentioned that the fact in this case that Mr. Mines brought up, there was a judgment. That, in our opinion, is one area where we respectfully urge some strengthening in the legislation.

As we read S. 1249, it provides for what we call prejudgment administrative setoff against an employee's salary with certain rights of the employee to look at the debt and rebut the debt and everything else.

There is nothing in this legislation that I see right now that would provide that if you have a judgment against me as an employee of the Department of Justice, you could take that judgment to the Attorney General and say to the Attorney General, "I want to garnish Bob Ford's salary." That, we think, judgment garnishment arrangements would be a very effective collection tool because there should be, at that point, post-judgment, no ability on the part of the debtor to dispute the debt.

He either disputed it in court and lost or he never showed up, and we got a dafault judgment. So that is one suggestion that we would make from the Department's point of view as an effort to strengthen legislation, Mr. Chairman.

Senator PERCY. Very good.

[The prepared statements of Mr. Ford and Mr. Mines follow:]

PREPARED STATEMENT OF ROBERT N. FORD

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity to discuss with this Subcommittee the debt collection activities and problems of the Federal Government, particularly the role of the Department of Justice in collecting delinquent debts due the Government. The Attorney General has testified several times personally that collecting the money owed the United States by delinquent debtors is a major initiative of this Administration as well as a major priority of his for the Department of Justice.

The Department strongly supports enactment of S. 1249 because present laws and their restrictions severely handicap the Federal Government in attempting to collect the debts due it. As evidence of the Department's support for this bill, I refer to the first recommendation of the Debt Collection Subcommittee of the Attorney General's Advisory Committee of U.S. Attorneys following that subcommittee's February 25, 1982 meeting in Tulsa, Okla.: "The Debt Collection Subcommittee recommends passage of S. 1249, Senator Percy's debt collection bill. . . ."

I am pleased to have with me today Mr. Frank Keating, the United States Attorney for the Northern District of Oklahoma, who is the Chairman of the Attorney General's Debt Collection Subcommittee. In addition, Mr. Edward H. Funston, Assistant Director for Debt Collection of the Executive Office for U.S.

Attorneys, and Assistant U.S. Attorneys Charles L. Dause from Lexington, Kentucky and George P. Williams from the District of Columbia are here with me to support enactment of S. 1249. Each of these men have personal experiences to share with this Subcommittee which we hope will emphasize the need for this legislation, but before they testify, I beg your indulgence to relate three points myself.

First, just a week ago last Friday, I received a telephone call from a distraught lawyer at the Labor Department. She had been trying for some time to collect $258,000 from an organization which Labor had previously funded under the CETA program, but which had been found to have misplaced that amount of its Federal funds. She found that the organization lacked funds from which she could recover the $258,000 owed the Labor Department. Quite accidentally, however, she also learned that the Department of Health and Human Services (HHS) was about to make a $400,000 grant to the debtor organization and she contacted HHS seeking to set of the $258,000 owed Labor from the $400,000 HHS grant. Her frustrations intensified when she was told that HHS claimed that it lacked authority to either stop payment of the $400,000 grant or to withhold Labor's $258,000 debt from it.

Second, a few weeks ago, Bob Wortham, the U.S. Attorney for the Eastern District of Texas, brought to my attention that the statute providing for certain Federally insured student loans actually prohibits the Secretary of Education from guaranteeing a loan where the borrowing student has a co-signer on the promissory note. Now, I can understand a public policy of not requiring a co-signer because some needy students may not be able to get such a guarantor, but I do not understand a law which prohibits having a co-signer from who the Government could seek to recover the loan when the borrower defaulted on the debt.

Finally, I am certain that the members of this Subcommittee understand that the Department of Justice is the Government's collector of last resort. This means that our U.S. Attorneys do not receive delinquent accounts for collection until after the creditor-agencies, and in some cases, private debt collection firms too, have tried unsuccessfully to collect from the debtors. In short, when all collection methods short of litigation have failed to produce the desired results, the debts are referred to our U.S. Attorneys for one final effort and then litigation if necessary.

In spite of the fact that we only get these debts to collect when all else has failed, our U.S. Attorneys have done a remarkable job this fiscal year. In May of 1982 alone, for example, the U.S. Attorneys reported collecting over $20 million in cash and for the first eight months of fiscal 1982, they have reported cash collections of criminal fines and civil debts of over $100 million. These figures are a tribute to the dedication and diligence of the people engaged in collecting debts in the U.S. Attorneys' Offices all over this country and demonstrate dramatically that the Attorney General is fulfilling his commitment to a vigorous program of collecting the delinquent debts due the United States. The success of the U.S. Attorneys thus far does not mean, however, that we do not need S. 1249. Enactment of this bill should make both the agencies and the U.S. Attorneys much more efficient and effective in collecting debts and ensure that even more dollars are recovered for the United States.

This completes my prepared statement Mr. Chairman. I and Messrs. Keating, Funston, Dause and Williams shall be pleased to respond to any questions you or the other members of the Subcommittee may have.

PREPARED STATEMENT OF KENNETH A. MINES

Mr. Chairman and Members of the Subcommittee: I appreciate the opportunity to participate in this hearing which is examining the collecting of defaulted loans from persons who are in positions of employment with the Federal Government. My testimony will be confined to one such case which involves a person employed by the Office for Civil Rights, Department of Education, in the Chicago Regional Office. I have been the Director of Regional Office for Civil Rights since 1972.

In view of the necessity to protect the identity of this employee and the confidentiality of certain information, I will briefly outline the pertinent facts in this case, avoiding where possible identifying information, and then respond to your questions. However, I wish to advise the Subcommittee that the Office for Civil Rights had no knowledge of the employee's loan obligation at the time of his application for employment. In addition, my Regional Office was only recently made aware of this matter as a result of a written inquiry directed to our Head-

quarters Office by a Member of Congress. Accordingly, my statement is based upon information that became available to me subsequent to the written Congressional inquiry.

The employee involved received a National Defense Student Loan for the purpost of financing his full-time professional education at Indiana University. My understanding is that the loan was in the total amount of $4650 and payments were disbursed beginning in August 1974. These disbursements by the University to this person continued until his graduation in May 1977. The initial installment was due in November 1977.

This person commenced employment with the Office for Civil Rights on May 20, 1979. The employee assumed the position of Attorney/Advisor, General Schedule (GS) 11, which at the time was $19,531 per annum. On the basis of satisfactory performance, the employee was promoted on June 1, 1980, to the GS–12 level with a per annum salary of $24,703. The employee received his last promotion, also on the basis of satisfactory performance, on July 12, 1981, and is currently being paid $34,300 per annum. This grade level completes the career ladder in this occupational category within our office.

Prior to his employment with the Office for Civil Rights, this person had undertaken several positions in the private sector. The work record also indicates employment on the date the loan was scheduled for repayment. In recent conversations with the employee, I was informed that he had experienced personal difficulties including uninsured medical costs occasioned by extended hospitalization of a member of his immediate family in September 1977. He also indicated he had made efforts to obtain financing from several financial institutions in order to repay the loan in full. These efforts proved unsuccessful which the employee attributed to a credit report purposedly filed with the Chicago Credit Bureau by Indian University. The employee also claimed that he had held several discussions with officials at the University regarding problems in repayment of the loan and the efforts he had made to obtain refinancing of his obligation. On December 27, 1979, Indiana University filed suit for repayment of the loan and judgment was entered in the Circuit Court of Cook County, State of Illinois on July 22, 1980, for $4,948.65, plus costs. The employee further alleged that this judgment has impeded additional efforts on his part to obtain financing from lending institutions in the Chicago area.

Our records indicate the employee received two communications from the Regional Labor Relations Office, dated May 20, 1981, and July 14, 1981. These communications urged the employee to work toward resolving this matter and referenced the Department's policy regarding indebtedness. The employee was advised that this policy provided that an employee's irresponsibility, i.e. neglect of financial obligations, may constitute grounds for disciplinary actions. The Labor Relations Office also held meetings with the employee immediately after the issuance of these communications.

I also wish to inform the Subcommittee that I initiated three meetings with the employee after I became aware of the problem. These meetings were for the purposes of advising the employee of our Office's concern about the outstanding obligation and to determine what were the problems. We discussed possible solutions and proposed agreements regarding the full and timely payment of the judgment debt. The first of these meetings was held on September 11, 1981, wherein I advised the employee to meet with the attorney representing the University to arrive at a mutually agreed upon payment schedule. On October 30, 1981, I met with the employee as a follow up to our previous discussion and was advised that he had made arrangements with the attorney for the University to pay $25.00 per pay period and to increase the amount to $50.00 per pay period within six months and to continue such payments until the judgment debt was discharged. On March 4, 1982, upon being notified that the employee had defaulted on the payment schedule, I met again with the employee. At that time, he advised me that he had filed a Chapter 13 Plan under the Bankruptcy Reform Act of 1978, but nevertheless made payment of the delinquent monthly installment to the attorney for the University. Subsequently, the employee informed that his Chapter 13 Plan was confirmed on June 9, 1982, and that he had commenced payment to the Chapter 13 Trustee on June 22, 1982. Included in the Chapter 13 Plan was the judgment debt involved in the present matter.

This concludes my statement and I am prepared to respond to questions from the Subcommittee.

Senator PERCY. We have two panels remaining. We will have to adjourn in 40 minutes at 12 o'clock. I think we can finish by then, and I will try in 2 minutes to summarize what we are going to do about this

problem and what the huge potential is. It will be the biggest return in investment I think we will have ever made on a piece of legislation in the history of the U.S. Goverment. You have contributed tremendously in helping to form this legislation and giving us the impetus, indeed.

The next panel consists of Anne Graham, the Assistant Secretary for Legislation, Department of Education; Ralph Olmo, Comptroller, Department of Education; Richard Hastings, Director, Debt Collection Office, Department of Education; Robert Raspen, Director, Internal Audit, Department of Education; and William Ward, Department of Finance, Department of Education.

I would like to welcome this panel this morning. I regret the Secretary was unable to attend. He was able to attend at a later date if necessary, but he felt we should go ahead today.

This legislation has taken several steps to improve the debt collection efforts of the Federal agencies. The Department of Education should be commended for the foresight in working with contractors in five areas of defaulted loans. In spite of this effort, the amount in default is staggering. The amount of default is $3.3 billion to the Department of Education loan program.

While your Department has taken a step forward in some respects, it has fallen back in others. I will have several questions regarding the list of Federal employees in default, as well as the status of some of the loan programs under your Department's jurisdiction. I would like to say, however, that in the long-term interest that I have had in this legislation, I have received more cooperation and more support from President Reagan, the Department of OMB, and the Department of Education than I have had previously. It has been refreshing to have this support. We still have a way to go. We certainly warmly welcome you here this morning.

Why don't we start off with Anne Graham in the order in which I called you down?

Ms. GRAHAM. Senator, Ralph Olmo has our opening statement.

Senator PERCY. Fine. If you would please go ahead?

TESTIMONY OF RALPH OLMO, COMPTROLLER, DEPARTMENT OF EDUCATION; ACCOMPANIED BY ANNE GRAHAM, ASSISTANT SECRETARY FOR LEGISLATION; RICHARD HASTINGS, DIRECTOR, DEBT COLLECTION OFFICE; ROBERT RASPEN, DIRECTOR, INTERNAL AUDIT; AND WILLIAM WARD, DEPARTMENT OF FINANCE

Mr. OLMO. Mr. Chairman, I am happy to testify before your committee today regarding the debt collection activities within the Department of Education.

As you will note, you introduced Ms. Anne Graham, Assistant Secretary for Legislation and Public Affairs to my far left; Richard Hastings, the Director of Student Financial Aid Management Services on my right, and on my immediate left, Robert Raspen, the Director of Internal Audit with the Inspector General's Office. Following my prepared statement, we would be happy to answer any questions you have.

Our comments today will detail the specific debt collection efforts in two of the Department's major programs and deal with problems and concerns in at least one of the major loan collection efforts for which

the Department is responsible. I might interject here, Senator, that I would also like to comment on some of your opening remarks regarding the Department's increasing rate of defaulted loans.

In response to the subcommittee's inquiry on the following actions pursued by this Department subsequent to three separate computer matches performed in 1977 and 1978, the following series of events have occurred:

Three separate computer matches were conducted in 1977 and 1978 using the Department's defaulted student loan collection files in the federally insured direct student loan and guaranteed student loan programs. The first of these three matches, performed in July 1977, involved a comparison of those files against the Department of Health, Education, and Welfare's payroll master file. In this match, 317 positive hits resulted and of those: 25 defaulters paid the debts in full shortly thereafter; 118 defaulters entered into repayment agreement plans and initiated repayment; 48 were investigated and referred to the Department of Justice for litigation; 23 of those borrowers were eligible for forgiveness for reasons of death, disability, or bankruptcy; and 103 were found to no longer work for the Department of Health, Education, and Welfare.

Of the number remaining, we have indications that some subsequently satisfied their debts, but specific records are no longer available on this particular group of individuals identified as defaulters. The records which resulted from these matches were subsequently destroyed by HEW audit within 1 year of the completion of the match in accordance with internal privacy controls and in compliance with the published system of records—routine uses notice which, essentially, prohibited any further use of the core group information. At this time, the Department has no facility which would enable us to identify that group and determine the current status of those particular loans.

In the second match, performed on January 7, 1978, which matched against the Federal civilian payroll system, 6,600 alleged defaulters were identified. Of that group: 689 paid the loans in full shortly thereafter; 2,960 entered into repayment agreements and initiated repayment; 592 were referred to the Department of Justice for litigation; and 468 others were resolved through legitimate programmatic provisions for writeoffs due to death, disability, or bankruptcy.

As with the first match, no facility now exists to recoup these records. Of the remaining 1,891, we have evidence that subsequent collection measures were successful, but there is no hard data to ascertain the degree of success on these accounts.

On the third and final computer match conducted in November 1978, student loan defaulter records were matched against the Department of Defense active—military personnel records and 10,740 alleged defaulters were identified. Of these: 674 paid the debt in full subsequent to the contract; 3,442 entered into a mutually satisfactory repayment schedule; 188 were resolved through legitimate program provision writeoffs for death, disability, and bankruptcy; and 1,402 were referred for further legal actions.

Of those remaining, 810 were deferred due to military service and 3,910 remained in "never paid" status. The status of the remainder of 314 is unclear.

At present, the Department is in the final preparatory stages for conducting a new match of our defaulted loans files which now include federally insured student loans, guaranteed student loans, national direct/defense student loans, and the Guaranteed State Agency default files. These records will be matched against an estimated 10.3 million records of present and past Federal employees from four sources. They include a tape from the Office of Personnel Management, another from the Defense Manpower Data Center data base, another from the Tennessee Valley Authority, and a fourth from the U.S. Coast Guard System.

Mr. Chairman, another concern raised by this subcommittee is the status of collections under the Cuban loan program.

The collection function under this program resided in our Dallas regional office from September 1979 through April of 1981. During that time, the Dallas regional office staff, which included three Spanish-speaking individuals, demonstrated that positive collection results could be achieved. During this period of time, the Dallas regional office collected $93,000, without computer support, and without the advantage of social security numbers so critical to tracking defaulted borrowers. Although the program began in 1961, social security numbers were not requested on the applications until 1969. This was due to the fact the loan recipients, being refugees, did not have social security numbers.

In the spring of 1981 the Secretary decided to consolidate all defaulted student loan activities into three regional offices and turn to the use of private collection agencies. It was, therefore, necessary to shift the responsibilities of the Dallas staff assigned to the Cuban loan program to our regional office in Atlanta. We were unable to receive any assistance from the Social Security Administration, Miami Refugee Center, or Immigration and Naturalization Service. We had an influx of refugees from Cuba and Haiti which left INS and the Miami Refugee Center with another overload.

The Atlanta office provides only minimal support to collections under the Cuban loan programs for two major reasons: One, the portfolio, most of which lacks social security numbers, cannot be effectively systemitized and must therefore be handled manually; and two, the ratio of dollars returned per collector in the Cuban loan effort was far lower than the collection effort in the guaranteed student loan and national direct student programs. The ratio stands at $8,600 per collector/per month in the Cuban loan program versus $34,000 per collector/per month in the combined GSL/NDSL effort.

Under current conditions, we feel that this collection program has been given as much attention as was fiscally prudent since May of 1981. After procedures were developed in early 1981, it was decided that Atlanta would perform only the function of coverting the accounts to repayment and then turn the ongoing billing responsibilities back over to the billing service contractor—the University Accounting Service in Brookfield, Wis.

This arrangement, though not indicative of the success of our Atlanta office efforts, has worked to our satisfaction since that time. Atlanta staff have converted 221 accounts to repayment and recovered $208,000 in the process. Our current plans call for the private contracting of this collection function during fiscal year 1983.

We believe that the Department's total collection strategy is moving us in the right direction. In pursuit of this strategy, smaller, less productive programs have been given less attention by virtue of conscious management decisions. As a result of this strategy we currently estimate that defaulted student loan collections will increase by about 25 percent in fiscal year 1982.

Mr. Chairman, the third area of concern noted by the committee in its recent inquiry concerns the status of collections under the law enforcement education program.

At present the collection activity in this program is centralized in Washington with minimal staff resources. Again, it was a question of allocating the scarce resources available in the most cost effective manner possible. The staff responsible for this program currently are devoted solely to determining how many recipients are employed in the law enforcement field, and thus would be entitled to forgiveness of repayment. At present the statistics under this program are as follows: $334.6 million in LEEP grants were made throughout the history of the program; $374 is the average dollar amount of each award; $8.9 million has been recovered from grantees who left the law enforcement field and must therefore repay the debt; $218.2 million of grants forgiven due to legitimate program provisions; and $107.5 million still outstanding for which the limited resources available are determining the extent of forgiveness. Based on past program statistics it is expected that 75 to 80 percent of these oustanding award dollars will be forgiven under program entitlement provisions.

Internally, we are planning a contact campaign within the next 3 months to assist program staff in identifying those individuals for whom no current status exists. At the conclusion of that effort, we expect to decide whether any further collection efforts on this portfolio are justified.

If we determine that a substantial amount of award dollars remain to be collected, we are prepared to initiate work on the award of contracts to private collection agencies on this program also. We will know better which direction is most reasonable and cost effective within the next 3 to 4 months.

The subcommittee has also expressed concerns regarding the reallocation of dollars collected from the national direct student loan program for NDSL program purposes, including collection-related costs. We strongly support this concept.

At present, the private agencies currently under contract to ED for collecting guaranteed student loans and national direct student loans are reimbursed for their respective commissions from the student loan insurance fund. As the guaranteed student loan accounts currently in repayment status are paid out, the resources of this fund will be depleted. Therefore, it would be wise at this time to develop a facility through which costs for the national direct student loan collections could be directly charged to funds recovered in that program.

The portfolio in the national direct student loan program now stands at about 1.2 million in defaulted loans, of which less than 375,000 are currently in the hands of this Department. As schools continue to assign such defaulted loans to ED, the commissions paid out of the student loan insurance fund to meet contract costs for the collections efforts will be severely strained. Therefore, to provide for a dependable

source of funding these costs, a fund, similar to the student loan insurance fund for GSL should be set up for NDSL. This would assure the future availability of funds to cover private agency collection costs and stabilize the fiscal responsibility within the program in which it belongs. This proposal will be included as a technical amendment within a legislative package now being prepared for transmittal to the Congress.

Before I close, Mr. Chairman, I would like to address one aspect of your opening remarks. That has been quoted often, and it concerns me. That is, I would hope that the Department of Education's success or lack of success in collecting student loans and other debts in the Department is not going to be evaluated on the basis of the bad debt ratio.

I have heard you state several times in various addresses that we have approximately 15 percent bad debt ratio in the Federal Government and that the Department of Education's bad debt ratio is a third or more. Our latest statistics are 33.9 percent.

That ratio will get worse, and there isn't anything that we can or even should do about that; 100 percent of the paper on our books in the guaranteed student loan program is bad paper. It is not on our books unless it is in default. Of our $10 billion in receivables, $1.8 billion is in the guaranteed student loan program.

The guaranteed student loan program has just gotten going in the last 2 or 3 years. More money has been lent out nationwide over the past 2½ years than all the other years put together.

Many of these students probably—virtually all of these students are not yet in repayment status. They will have to graduate from college. They will have a grace period. When these loans start coming in for claims, that number is going to get larger, and that will be 100 percent bad debt.

Other programs that we have which account for part of our debt, such as the college housing program, that program is winding down some. The college housing program has only 1.5 percent of this receivable that is delinquent. "Delinquent," in the case of college housing, refers to the sum of payments overdue by 30 days or more. That receivable is going to get smaller, so our good paper is continually reducing, and a few years down the road, if we continue the trend, everything we have will be bad or it wouldn't be on our books.

I would hope that either the total dollar amount, the $3.3 billion you referred to, wouldn't be a good measure and neither would the percentage of bad debt related to the receivable as a whole.

We are taking measures to improve collection of all of our receivables. We have got to come up with some other ways of letting you know how we are doing.

Senator PERCY. I agree with you on that.

Secretary Graham, in my opening statement, I described the case where an individual defaulted on his $5,000 student loan in 1978 in a midwestern school and was still able to secure a job at your department a year later. Since he was hired in 1979, he has received two promotions from a $22,000 level to a $34,000 level in spite of his default and a Federal court judgment against him in 1981. What is particularly disturbing is that your department has been aware of this employee's debt fault since May 14, 1981, when the attorney prosecut-

ing this case made you aware of the default of this person. In fact, Congressman Derwinski had sent three letters to the Department, including one sent to you, on December 9, 1981. We have a stack of letters right here. The debtor, after making only $250 in payments on his $5,000 default, has just filed for bankruptcy. He will be excused from 90 percent of his education debt. Is it too late to recover this amount?

Secretary Graham, it is bad enough that you hired this person in the first place and gave him a promotion in 1980, all while he was in default on his loan. But when you promoted him, after you were fully aware of his default status, it becomes simply kind of outrageous to Congressman Derwinski and myself. Why did you promote him in 1980 when you were aware of his default? Instead of promoting him, why didn't you threaten him that he would be fired?

Ms. GRAHAM. Mr. Chairman, when I became aware of the situation, I directed the letter to the appropriate office for response. The letter was sent to the regional office where his immediate supervisor counseled him and attempted to get that repayment.

Because of current law, there was very little else that we could do. That is one of the reasons why we desperately need your Debt Collection Act of 1981, because that would help us rectify some of these problems.

Senator PERCY. Your own Inspector General's code of conduct, that is, the Inspector General for the Department of Education, recommends suspension or removal of an employee indebted to the agency.

Why weren't these guidelines followed?

Ms. GRAHAM. It is my understanding that at the time that we were aware of the problem, we did everything in our power that we could. Subsequently, the employee filed bankruptcy. That prevented us from taking any further actions.

Senator PERCY. How could you say that you did everything you could do, when your own Inspector General has guidelines saying suspension or a removal of an employee is called for if they are in debt to the Government?

Ms. GRAHAM. In terms of the technical reasons, Senator, I would have to refer to our representative from the IG's office, who is here, or Mr. Olmo.

Senator PERCY. Mr. Olmo, do you want to say something briefly?

Mr. OLMO. With respect to the Inspector General's guidelines on administrative action, I was advised by our general counsel in the last day that once an individual is appropriately in bankruptcy proceedings, it would be improper for us to even take any administrative actions against him.

Senator PERCY. I wonder. As I understand it, this individual is up for another promotion this summer. Do you plan to promote him again.

Ms. GRAHAM. It is not in my domain to make that decision, but I certainly would encourage the person who does have that responsibility not to promote him.

Senator PERCY. Encourage him? Doesn't this person report to you?

Ms. GRAHAM. No, sir, he does not.

Senator PERCY. Isn't there some chain of command that ends up with you?

Ms. GRAHAM. Not with regard to the regional office, no.

Senator PERCY. Who is responsible for making this decision?

Ms. GRAHAM. Ultimately, in Washington, a special assistant to the secretary, Dr. Robert Billings, is responsible for our regional offices, and, then, of course, in the end, the Secretary.

Senator PERCY. You don't know yet whether that person is going to be promoted again?

Ms. GRAHAM. No, I don't know that.

Senator PERCY. Let me tell you: If he is, you are going to hear from me directly. I am going to ask why an Assistant Secretary of DOE cannot enforce and have the power to stop an outrageous practice like this.

You commit yourself to me that you will look into this and see what authority you have. If you lack authority, you let me know, will you?

Ms. GRAHAM. I will do that.

Senator PERCY. Excuse me for getting upset.

Mr. OLMO. Excuse me, Senator Percy.

The thing that we have to deal with here is the advice we get from general counsel regarding taking any punitive administrative action against individuals who have appropriately filed a bankruptcy proceeding.

We certainly would want to do anything we could administratively to provide disincentives to individuals to pay off their student loans. We currently have a procedure in place that would permit us to reprimand, suspend, and even ultimately terminate employees who refuse to pay back their student loans.

In this case of an individual who has filed bankruptcy, we have been advised that we don't have the legal option to take punitive administrative action against individuals in those circumstances.

Senator PERCY. We will come back to that in just a moment, but I would like to know at this point, because this committee has talked for months about the number of Federal employees, particularly those in the Department of Education that are in default. Can one on the panel tell me how many Federal employees are in default on their education loans?

Mr. HASTINGS. Currently, Senator?

Senator PERCY. Yes.

Mr. HASTINGS. No, we cannot. We don't have those data. We will have those data as a result of the match which Mr. Olmo described in his testimony before the end of the year.

Senator PERCY. No one really knows how many are in default?

Mr. OLMO. No. We had some data 2 years ago that identified a number of people in the Federal Government who are in default of student loans, and we had some 18,000 employees estimated at that time which were in default.

We subsequently felt, because of corners over the Privacy Act provisions, that it would be necessary to destroy the tapes.

Our Inspector General advised us of that. OMB had a regulation that provided for that.

Senator PERCY. Let's just go to the specific periods that we do have.

On this chart, we have the data from the study done in 1979, the Federal Employees default on student loans. This data was completed

by the Department of Education at the time. Of the 17,340 Federal employees identified as being in default at the time, how many have not repaid their loans, and how much did they pay?

Mr. OLMO. I am sorry. I didn't hear the question.

Senator PERCY. How many of these students did not repay their loans, and how much actually did they pay on those loans?

Mr. HASTINGS. We cannot provide the answer to that to the committee at this time, because we would have to know who the defaulters were, and we don't have those today.

Senator PERCY. Right on the chart, we show a figure of 3,910 students who have never paid.

Mr. HASTINGS. Yes, sir, but I thought the question was how much, and we cannot tell you that.

Senator PERCY. Does the Department have a list of these 3,910 Federal employees who never paid?

Mr. HASTINGS. No, sir.

Mr. OLMO. No, we don't. The records were destroyed 2 years ago, as I indicated, as a result of concern over Privacy Act provisions, and we didn't maintain those.

Senator PERCY. And the list was destroyed, actually, by the Department of Education?

Mr. OLMO. The Department of HEW, yes.

Senator PERCY. And it was destroyed long before you finished collecting from the 3,910 who had never paid and the 6,402 who actually promised to pay and the 810 in dispute; is that so?

Mr. OLMO. Yes, sir.

Mr. HASTINGS. But I think there is a very important distinction that needs to be made here. Senator. The product of the match is what was destroyed. These people are still defaulters insofar as our computer system is concerned. We just do not know that they also happen to be Federal employees. So that if they would pay or if they did not pay, they have subsequently been handed to our regional collection people for additional work or they have now been turned over to collection agencies.

Senator PERCY. Could you explain this again?

You mentioned that the Department of Education actually destroyed the list. Why did the Department of Education destroy this list of Federal employee defaulters before it had finished collecting from them? What particular act of law were you following out or direction did you feel you had or authority that you had to destroy such a list?

Mr. OLMO. Perhaps for additional details on that subject I could refer to Mr. Raspen from the Inspector General's office.

Mr. RASPEN. I was not with the Department of Education at that time, so it is very difficult for me to say why exactly those tapes were destroyed.

However, in the Federal Register, which permitted the Department to do the match then, it was stated that all the tapes would be destroyed or the output, the list would be destroyed in accordance with the OMB guidelines.

The OMB guidelines at that time stated:

Record of hits, unless otherwise required by Federal order, any records relating to the hits, including computer printouts, listing of hits and any personal information provided on the list should be destroyed within 6 months after the match unless they are necessary for pending law enforcement or administrative law enforcement, activities consistent with the matching program and are authorized by law.

Any extension of the 6-month period should be published and with appropriate explanation in the Federal Register.

This is the only explanation I can find as to why they would be destroyed.

Senator PERCY. That sounds like a lot of bureaucratic gobbledygook and makes no sense to anyone with a fifth grade education. Why is it the Veterans' Administration list that was compiled at about the same time as DOE's is still in existence?

Mr. OLMO. I assume they had a different interpretation. I should tell you, Senator Percy, the current Education Department doesn't support that action that was taken a couple of years ago, and we are in the process of developing a new listing, and when we develop this new listing, we still believe that we will have to destroy the tapes in order to be in the technical compliance with this regulation, but we will maintain a listing of those individual employees, and that record will be available in the next 3 to 4 months.

Senator PERCY. But as of right now, there is nothing being done, especially with these employees; they are going right ahead with promotions and so forth as if nothing had ever happened.

Mr. HASTINGS. I think the point to be made, though, Senator, is this points up the necessity for the legislation currently before the committee. By having the additional tool of being able to offset salaries in the Federal agencies at which those people were employed, we wouldn't have the problems that you have brought before the committee today.

Senator PERCY. In 1980, I chaired the first hearings in this committee on Federal Government's debt collection program. To illustrate the mismanagement of debt collection in Government loan programs, we focused on a program administered by the Department of Education, the student Cuban loan program.

At the time, it was in a shambles. With $34 million loaned, $18 million was in default, and these were students willing to repay. Education officials testified at the time that once contacted, 90 percent of the debtors actually paid their debts. DOE simply had stopped collecting the amounts for 2 years. Last week, my staff was informed that not much has changed in this program, in spite of the attention focused 2 years ago. In fact, the situation is worse. There is now $21 million in default. We have here the actual records of the hearings that we had at the time, these hearings that were held in 1980, in which the Department of Education made several promises about corrective action on this program.

Let me just read each of these recommendations and have you tell me if they have been implemented. First, testimony was given by Thomas A. Butts:

I would like to give you a brief status report on the implementation of the recommendations included in the debt collection project report.

One, written procedures will be developed by March 31, 1981.

Has that been done?

Mr. HASTINGS. It is my understanding that that refers to the billing procedures, and I believe it has been done, sir.

Senator PERCY. Can you certify that the promise that was made by the Department of Education in that testimony to us that written procedures would be developed by March 31, 1981, has or has not been done?

Mr. HASTINGS. I can't certify that from my personal knowledge.

Senator PERCY. You can't certify that?

Mr. HASTINGS. No.

Senator PERCY. To the best of our knowledge, it has not been done. The second commitment was that counsel be reviewed for feasibility of writeoff. Has that been done?

Mr. OLMO. No, sir.

Senator PERCY. The third commitment that was made to us was referring default accounts to the Department of Justice for litigation. Has that been done?

Mr. HASTINGS. I am not aware of any Cuban loans that have gone to the Department of Justice, Senator.

Senator PERCY. Another statement made to this committee, "Our Finance Division has established a working group to resolve the problems surrounding bounced checks." Has that been accomplished, and is there such a working group?

Mr. OLMO. Excuse me just a minute. I have the director of finance here in the Department, Mr. Bill Ward. I would like to address that question to him.

Mr. WARD. Yes, we are. There was a task group established to address that problem and to bring the data into the financial records. We are reporting it based on what is in the financial records at this time.

Senator PERCY. Does it exist right now?

Mr. WARD. The task group, sir?

Senator PERCY. Yes. Can we have minutes of the meetings that have been held and conclusions that were reached and results that were achieved as a result of that group?

Mr. WARD. There is a long file of things that has taken place on all of these student loan groups where we are working with the student aid group.

Senator PERCY. We would like to have as much of the recordkeeping as a record of the commitment that was made to this committee. How soon can that be provided to us?

Mr. WARD. Within a week to 10 days.

Senator PERCY. All right, 10 days at the limit.

Finally, "We project fiscal 1981 projections will equal $15 million. We expect that within a short while, our success of the Cuban student loan program will be comparable."

Has that promise been met?

Mr. OLMO. We have not been concentrating intensely on the collection efforts on the Cuban student loan program, Mr. Chairman, and I would like to address that for just a minute.

We have had a very dramatic initiative in the Department on debt collection, and I would hope that your reference to this program isn't extrapolated into an overall indictment of our debt-collection process.

You referred to the contracting out of the debt collection on guaranteed student loans, and on NDSL.

Senator PERCY. Could I just ask this? Of the $15 million that was promised would be collected, how much has been collected?

Mr. OLMO. In 1981, we collected $885,000 in Cuban student loans. We have collected 210—I am sorry, $885,000 in 1981, that is correct, and $210,000 the first half of fiscal year 1982.

We are continuing to use the billing service to send out notices to these students. I do want to say, though, that the Cuban student loan program represents two-tenths of 1 percent of the Department's receivables. We have been focusing on the larger items. I am not saying $20 million isn't important, but it is clearly not indicative of the kind of effort that we have made and the kind of progress that we have made which has been quite dramatic in terms of collecting debt in the Department.

We have increased, this year, some 30 percent our collections over the prior year. We have a goal that OMB has given to us to increase our collections by $225 million over the prior year. It looks like we have a shot at meeting that goal. I am not saying that $20 million is not important, it is. But by comparison, it is insignificant, and as we have been focusing on our debt in the Department, we decided it would be more cost effective——

Senator PERCY. Ninety percent of these are collectable. What do you mean these are insignificant?

Mr. OLMO. Relatively speaking.

Senator PERCY. Relatively speaking? What world do you live in? Have you ever worked in the private sector?

Mr. OLMO. Yes.

Senator PERCY. Where?

Mr. OLMO. With a CPA firm.

Senator PERCY. Who?

Mr. OLMO. Kenneth Leventhal & Co.

Senator PERCY. What were your accounts?

Mr. OLMO. The types of industries?

Senator PERCY. Yes.

Mr. OLMO. Primarily real estate.

Senator PERCY. Do you think companies would stay in business with that? When you have debts that are 90 percent collectable and you don't go after those, do you think that companies are going to stay in business?

Mr. OLMO. We don't have any evidence that they are 90-percent collectable.

Senator PERCY. Would you like us to provide that evidence to you?

Mr. OLMO. That they are 90 percent collectable?

Senator PERCY. Yes.

Mr. OLMO. You are saying collectable with a moderate amount of effort by the Department?

Senator PERCY. Let me just say this in conclusion. We will have to move on to the next and final panel. I was a sponsor, the principal Republican sponsor of the creation of the Department of Education. Despite the fact that the President said he was going to abolish it, I am still supporting it. I still think we ought not to be the only modern country and large industrial country in the world that doesn't have a

Department of Education at a ministerial level. I think the Department belongs there.

I must say, I am deeply disappointed when we have the Department of Health and Human Services and the Veterans' Administration, who have really gone after debt collection. We gave them the same kind of a notice as to the inexcusable actions being carried on. Now, they are really doing their job by turning things around and starting to bring in hard cash.

I really find the number of excuses offered by the Department of Education inexcusable for not having done the same thing. This committee will insist that we have better performance. I will ask within 60 days for a meeting with the Secretary and yourselves to see what kind of performance exists. I am very sorry, indeed, to simply say I'm not satisfied. This committee will not be satisfied with the performance that we have seen so far. It is do-able. It can be done. The measure is where it has been done by other departments and agencies. That is the standard, because that is no different an area. We will expect, then, to see you in 60 days. Thank you very much.

Our next and final panel is the Department of Health and Human Services: Richard P. Kusserow, Inspector General, Department of Health and Human Services, and David Swoap, Under Secretary, Department of Health and Human Services.

The committee will have to recess for 5 minutes so that I can go down and vote, and we will be right back.

[A brief recess was taken.]

Senator PERCY. We are running regretfully late because of the vote. We are behind schedule. Richard Kusserow, David Swoap, and Dr. Daniel Whiteside: the full text of your statements will be incorporated in the record. You can summarize them in any way that you see fit.

TESTIMONY OF DAVID B. SWOAP, UNDER SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES; ACCOMPANIED BY RICHARD P. KUSSEROW, INSPECTOR GENERAL, AND DANIEL F. WHITESIDE, D.D.S., DIRECTOR, BUREAU OF HEALTH PERSONNEL DEVELOPMENT AND SERVICE

Mr. SWOAP. Thank you very much, Mr. Chairman.

I am David Swoap, Under Secretary of the Department of Health and Human Services. As you indicated, accompanying me today is Dr. Daniel Whiteside on my left, the Director of the Bureau of Health Personnel Development and Services, and Mr. Richard P. Kusserow on my right, the Inspector General of the Department.

First of all, Senator Percy, I would like to compliment you and members of your staff for what I think has been an extraordinarily successful and a very diligent effort that you have undertaken to bring attention to this problem and to devise and come up with the solutions that are necessary to cure it. I think you have done a significant service in that regard. Certainly, we are trying to carry our efforts forward.

Senator PERCY. Thank you very much indeed.

Mr. SWOAP. As you know, Secretary Schweiker has placed a high priority on the debt collection efforts in our department. We have a comprehensive program underway in HHS aimed at improving our

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collection efforts and reducing the amount of debt which becomes delinquent. I think I can say, Mr. Chairman, that we are making significant progress in bringing down our delinquency rate.

I think I can tell you that if we continue on the track that we are on presently, we will be able to reduce by 50 percent the delinquency rate for this year over last year simply because of the efforts that you have identified and the ones that go on from within the Department. Largely, I would say—and this, certainly, I think would be true for any department in the Federal Government—that if one aggressively attacks four specific areas, it is possible to achieve these kinds of successes:

The first one is, as you know, and as we have found through the work of Mr. Kusserow, if you have an ongoing, detailed, significant enforcement effort through the Inspector General, if you have identification efforts underway and the kind of audit surveillance that our Inspector General has put in place, that is really the first essential element of an aggressive effort to bring down delinquency rates.

Second would be the general Department administrative policies on debt collection across-the-board. I am happy to report that the Secretary just very recently has issued a comprehensive set of policies on charging interest and buttressing penalties using commercial collection agencies to reduce the delinquency rate in our Department. So I would submit these for the record.[1]

Senator PERCY. They will be incorporated in the record, then.

Mr. SWOAP. Third, we have found that there are a number of regulatory steps that we can take and that we are taking.

We have a series of about 10 specific regulatory efforts underway. They are presently in clearance in the Office of the Secretary. We expect that they will be sent over to OMB very shortly so we will be in a position to improve our own regulatory efforts in a formal way through these proposed regulations.

Finally, Mr. Chairman, are the proposals for legislation that you have made and that we feel are essential and very desirable to augment what we can do administratively. So we are looking forward to speedy enactment of those proposals by the Congress as soon as possible.

As you know, as we proposed on December 8 of last year, when you focused attention on this problem, we instituted an action plan in the Department which basically charted an overall course for reducing delinquency in the health professions student loan program

Included in my prepared remarks are detailed outlines of the elements that were included in our January 19 action plan.

Second, as I said, the Secretary has issued new policies for charging current market interest rates as measured by the Treasury Department on delinquent debts owed to HHS, and these policies will also permit the limited use of collection agencies when the Department is unable to locate debtors or communicate with them directly.

The elements of the regulations that I mentioned basically require schools to use collection agencies, credit bureaus, and pursue litigation, if necessary, to require monthly payment schedules.

We feel that if a delinquent former student does have a monthly repayment schedule, he is going to be asked to repay and therefore

[1] See p. 81.

is more likely to be on a current basis than if the repayment schedule is less frequent.

There are other elements in the regulations, Mr. Chairman, but in view of the limited time, I will, again, have those included in the record.

Legislatively, as you know, we have submitted two proposals to the Congress. Those are to seek authority for the Internal Revenue Service to release the locations of delinquent borrowers to the Department and to participating institutions, and receiving authorities for a school, at the discretion of the Secretary, to transfer notes back to us, to the Federal Government, for collection so we can close this loop that presently is partially open.

I know that you are interested primarily today in our success, and specifically as to the status of the number of physicians that were identified by the Office of the Inspector General as being delinquent in their health professions student loans, and who are also employees of our department.

As you know, we identified 80 such individuals. We began pursuing them rather aggressively. I am happy to report that my mid-June, we had that number down to 14. All of the others have come completely into current status in the repayment of their loans, and we have only 14 who have not yet done so to date.

We are continuing to pursue them aggressively. We have sent them two letters, we have a third in progress, and basically, by August 19, if we don't have a current status from each of those 14 individuals, we will commence undertaking disciplinary action of the kind that is permitted for the Department.

In summary, Mr. Chairman, I think that we have made some significant progress. We still have some distance to go, but I think that through the efforts of the Inspector General and those of the Secretary, our Department has been achieving some measurable progress.

I can simply give you my personal commitment that we will continue to exercise that amount of initiative and diligence to the extent that we can and, again, as I say, harmonize our efforts with yours.

Senator PERCY. Having found it necessary to come down so harshly on the preceding panel, it was a painful process for me to do, but I think they had it coming to them. I am very happy now to be able to commend you highly for the degree of progress that has been made since we began to work on this together. I commend you for it, and you will certainly want to pass that word on to our former colleague, Senator Schweiker—Secretary Schweiker now.

Mr. SWOAP. I will do that.

Senator PERCY. Mr. Kusserow, we welcome you for whatever comments you would like to make for two good reasons:

First, with one other Democrat, I sponsored this legislation for an office of the Inspector General in every one of our executive branch offices. I want you to know I have slept better since. We know that we are not dependent. You know you are not waiting for oversight on these. You have internal auditing in each of these agencies now, which is a business-like practice that had to go into effect. We now have outstanding inspector generals. Furthermore, your being from Naperville, Ill., doesn't hurt one bit. [Laughter.]

Mr. KUSSEROW. Thank you, Mr. Chairman.

The Under Secretary for our Department has pretty well covered many of our audit findings. I would just like to submit for the sake of brevity my formal statement for the record and leave whatever time is available for specific questioning. I would also like inserted a copy of our audit on the HPSL program and a copy of our 1980 debt collection practices report.[1]

Mr. SWOAP. Mr. Chairman, I would just perhaps like to give one other piece of data from preliminary reports from the Inspector General, just giving you some of the progress showing that collections are substantially improved from a year ago.

The Inspector General found in his audit of medical schools that six schools have recovered $230,000 between just February and April of 1982, $91,000 was recovered during a comparable prior period at the same schools. One university, which had 131 delinquent loans totaling $134,000, reported that 29 percent of these delinquencies, totaling $38,860, has now been eliminated, and partial payments are being made on another 9 percent.

Another university told us that the March 1982 collections had more than tripled over December 1981 levels. A recent survey of selected medical schools indicate that overall collections for 1981–82 have increased by 28 percent over the 1980–81 period.

I say overall that we look to reach the 50-percent level in reduced delinquencies this year over last year's level.

Senator PERCY. I don't think I have ever really seen, in my 16 years in the Senate, as complete a turnaround in a management of a Federal program as I have in the health professionals loan program. It has really been dramatic, and you have done an outstanding job.

Could you repeat again, since our hearings last December in which we first pointed out this problem, what is the degree of improvement in collections in this program under your direct jurisdiction? Is it any different than other departments and agencies could have accomplished, in your judgment, with the same kind of effort?

Mr. SWOAP. Yes, sir. We think that through the four elements that I mentioned at the outset that it is possible to reduce delinquency rates dramatically, and as I indicated, our recent survey of a number of medical schools indicates that there is a 29-percent improvement rate in the 1981–82 period over 1981.

One university reported that 29 percent of their own delinquencies had been eliminated, and six schools between the period of February and April recovered $230,000. One indicated that their March 1982 collections had more than tripled over their December 1981 collections.

The total number of individuals that we have identified as physicians within the Department were 80, and as I say, that number has now gotten down to 14. We expect, by the end of the year, to have reduced by 50 percent in amount the delinquency rate over that which existed last year. We do feel that through similar efforts, those kinds of achievements can be secured by other departments. I frankly don't know what the track record is or what kind of efforts are present elsewhere, but we would be happy to share whatever limited expertise we have and simply make available the kind of efforts that we have undertaken.

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[1] See p. 81.

Senator PERCY. I understand that the audit also reported that many of the defaulters in the health profession student loan program actually were receiving substantial medicaid and medicare payments by the Government. Could you describe what you found here? Tell us about a few of the more serious cases.

Mr. KUSSEROW. Mr. Chairman, as a result of a study that our Office of Audit performed, we found that the 442 physicians that were in delinquent status had drawn $12,400,000 in medicaid and medicare; $6.6 million in medicaid reimbursements and the balance of $5.8 million from medicare.

We found that one borrower who was delinquent for over 25 months and past due on $931 had received nearly $100,000 from medicare and a quarter of a million dollars from medicaid.

We had another borrower delinquent for over 4 years and past due on $2,189 who had received $134,000 from medicaid. We had another borrower delinquent for 42 months and past due on $1,428 that had received $253,000 from medicare.

We did find a situation where doctors were participating in our programs and receiving money, while at the same time they were delinquent on the loans that they had received through other department programs.

Senator PERCY. Could you indicate the amount the doctors actually owe again?

Mr. KUSSEROW. The amount that the physicians, those 442 physicians owed on their loans came out to a half a million dollars, while at the same time, they were drawing $12 million in the benefits under the Health Care Finance Administration of our department.

We have made recommendations that legislation be considered to offset against delinquent debts the amount due of the debtors for services provided under medicaid and medicare programs.

We don't feel that they should be drawing down against those programs while owing money to another program of our department. We believe that we should preclude delinquent debtors from participating in department financed programs such as medicare until their debts have been liquidated.

Senator PERCY. Are there any further actions that you want to recommend to rectify this situation?

Mr. SWOAP. Yes, sir, Mr. Chairman.

I think the two sets of action steps that we would recommend are embodied in the proposed regulations that we will be sending out, hopefully, within the current month; and then, second, the legislative provisions that you have included in your legislation.

I think taken together, those two will virtually close the door on this problem and enable us to attack it even more aggressively.

Senator PERCY. Finally, Mr. Kusserow, as you know, the health profession student loan program is a revolving fund. I have had to explain this to medical students across the State. The old loans being repaid provide funding for loans to new students. Thus, when a former student defaults, he really is denying a new student a loan. That is one way to keep the competition down, of course, but I think it is in the general overall interest to have an adequate number of doctors and not a shortage of them.

Based on the findings of your study, how many students have been or will be denied loans because of defaults by former students?

Mr. KUSSEROW. We are able to make certain projections, Senator, based on our experience to date on the reduction that can occur in the delinquency rate. We feel that if we had employed, in the past, the management practices that we are now beginning to employ in our department; and if, in fact, we had the type of legislative support, that you are proposing, in place, we probably would have had another 3,000 would-be physicians that could have received loans but were denied that opportunity because of delinquent doctors had not paid back their loans.

Senator PERCY. I think that of all the specific cases, and I will deal with the overall figure in a moment as the potential that we can yield at the Federal level; but we have taken specific instances and cases and segments to make it very personal.

I don't know of any in the fly-around I made and completed in 102 counties since my election—and I just finished it the weekend before last—I don't know any group that has enraged people more than to learn that doctors—and we had six medical schools, one of whom, the greatest in the world, I had to call the president of the university. He did not want to come, and they were refusing to come and cooperate with us, and they had the responsibility for collecting these loans. I had to call this dear friend of mine and say: "I would hate to issue a subpena, but in this case, I would do it, because I think the public ought to know about this." I find that doctors who a decade after they have gotten their education, they never could have had that education without those student loans; they never could have afforded to go to medical school, were making $100,000, $200,000 as surgeons, physicians, had paid every other debt; have no other debts and an absolutely perfect credit rating in their community and have never paid back their student loans and didn't even intend to. I think nothing enraged people in my State more than that. They just couldn't understand it.

I am happy to report today real progress that you are making. You have rendered a tremendous service to your country, and I would also like to pay tribute, because we do not have to have time personally to give it. I would like to pay tribute and ask is not Mr. John Pressly in the room? We had notified him we would not have time for his testimony, but he is the debt collection director to the Veterans' Administration. We had hoped to have him appear, but we will incorporate his testimony in the record.[1]

The VA has also done a very good job in cracking down on defaulters, and they have a lot of reasons, "Oh, well, they are veterans and so forth." I say all the well more reason. If you serve your country and are loyal to it, why not stick right with it and pay your debts? They are really going after the veterans now, and they are having fine results with it. So I commend you and them.

In summary, let me just indicate what we intend to do with this legislation, and the potential is huge. We anticipate—the President and the Director of the Office of Management and Budget anticipate—that now, with this program, asset management—I had mentioned how much we were going to get from that—$17 billion I think, in 3 years, just in selling off assets we don't need. This program will bring back $20 billion in 5 years. That is $20 billion of debt reduction. That

[1] See p. 75.

is $20 billion we don't have to go borrow at Government borrowing rates. It compounds with that interest cost.

You can imagine how rapidly that is going to make it, and I keep telling these students that haven't paid these loans, "you don't know how good you are going to feel to have paid off your Government and have a clean record with them." But in order to encourage this, what we will do in this legislation, which I am sure will pass the Senate and the House this year and be on the books, because every day we delay, we are losing money: First, it enables the Government to refer delinquent debtors to credit bureaus while providing those debtors the same protection now offered the private sector under the Fair Credit Reporting Act.

Second, it requires individuals to supply their social security number when applying for credit or financial assistance. I don't know any bank that doesn't require it. The social security number is essential to find a person, and that will help.

Third, it provides offsetting a Federal employee's salary and certain benefits to satisfy general debts owed to the Government from whom they are receiving their own paychecks. That will help a lot.

Fourth, it makes it a Federal penalty to assault Federal employees collecting debts owed the Government.

Fifth, determining delinquent tax liability and seeking its resolution before extending further Federal credit. We found some people making 13 continuous consecutive loans from different agencies of the Government. Not one knew the other one was in default.

Even if the Federal Government did know it, the agency involved did not have the authority to turn them down.

Sixth, the disclosure of mailing addresses obtained from the IRS on delinquent debtors to private contractors for debt collection purposes. IRS's efficiency can again be paid off here.

Seventh, it clarifies that administrative setoff of delinquent debts owed the Government exists beyond the 6-year statute of limitations.

Eighth, provides assessing interest on debts owed the Government and penalties on those debts that are delinquent.

Ninth, easing the requirements for serving summonses in order to litigate delinquent debt cases.

Tenth, provides for a report to Congress on debt collection activities, and, finally, allowing Federal departments and agencies to contract with private collection agencies for collection services.

We certainly have had the enthusiastic backing of the private collection agencies. They will be up for competitive bid. It is not going to be on the same percentage basis as they work in the private sector, the figures are too big, but, certainly, we will get it back in interest costs alone. That cost will be nothing. They really know how to go out and get money. Federal bureaucrats just seem to think at most agencies that their job is just to get rid of the money, spend it, loan it, get it out; no real problem in getting it back.

Now, we are going to make it a real problem in getting it back, and I think you have performed a tremendous service in advance of passing this legislation, proving that on our own, you can bite the bullet; you can take the initiative and you can have the kind of results that you have demonstrated you are able to get, and I certainly commend you for that.

[The prepared statements of Messrs. Swoap and Kusserow follow:]

PREPARED STATEMENT OF DAVID B. SWOAP

Mr. Chairman and Members of the Subcommittee: I am pleased to have this opportunity to testify before your Subcommittee on the progress the Department has made in reducing delinquency in the Health Professions Student Loan program. Accompanying me today is Dr. Daniel Whiteside, Director, Bureau of Health Personnel Development and Service, and Mr. Richard Kusserow, Inspector General. Mr. Kusserow's following testimony will provide greater detail on some of the issues of concern to the Committee.

Secretary Schweiker has placed a high priority on the debt collection activities of the Department. We have a comprehensive program underway in this area that includes all HHS components aimed at improving our collection efforts and reducing the amount of debt which becomes delinquent.

Last week, the Secretary issued new policies for charging current market interest rates—as measured by the Treasury Department—on delinquent debts owed to HHS. These policies would also permit the limited use of collection agencies when HHS is unable to locate debtors or communicate with them directly. I have a copy of the Secretary's new policies which I would be pleased to provide for the record.

In addition, as I will discuss in greater detail, the Secretary has recently sent to the Congress legislative proposals which will strengthen our ability to improve collections in the health professions loan programs.

In the time allotted to me today, I would like in a general way to review with you the steps taken by the Department since the December 8 hearing of this Subcommittee aimed at improving the management of this program. I also want to bring you up to date on the status of the loans of the 80 physicians identified by the Office of the Inspector General (OIG) as both delinquent borrowers and Department employees. Prior to doing that, however, let me briefly review the history of the Health Professions Student Loan program.

THE HEALTH PROFESSIONS STUDENT LOAN PROGRAM: ITS HISTORY AND ADMINISTRATION

In 1963, the Congress authorized the Health Professions Student Loan program as part of an overall effort program designed to meet an expected national shortage of physicians, dentists, and other health professionals. As the program has evolved, it has provided long-term, low interest loans to students in need, scholarships to students with exceptional financial need, and either repayment or cancellation of portions of the principal and interest on educational loans of graduates who agree to practice in designated shortage areas.

The basic purposes of the Student Loan Program have remained essentially unchanged since its enactment in 1963; however, in 19 years the program has been reauthorized six times with program modifications in most of the legislative renewals. Changes were made in the types of institutions which were eligible to participate, amount of loans, rate of interest, and terms for repayment. The program was decentralized in 1973 to 10 regional offices and per the instructions of Congress, recentralized again in 1976.

Most recently, the program was reauthorized in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), although the Administration is requesting no funds for it in fiscal year 1983. Current law provides for participating educational institutions to make loans at a 9 percent interest rate to eligible health professions students for up to $2,500 a year plus tuition. Medical and osteopathic students who receive awards must be of exceptional financial need. There is a ten-year repayment period which begins after the student completes training. A loan may be partially offset if a student agrees to serve in a health manpower shortage area.

Eligible schools which want to participate in the program apply to the Department for allocation of funds and then subsequently establish a Federal Capital Contribution (FCC) Fund for making loans to eligible students. Schools are required to contribute 10 percent of the total, with HHS contributing the remaining 90 percent. Principal and interest collected on loans are returned to the fund to be reloaned to other students, hence creating a revolving loan fund.

It is important that this Subcommittee recognize both the responsibilities and the limitations of the Federal government in program administration. The Department has responsibility for making the awards to the institutions, developing the regulations and policies for the participating schools to follow in both the awarding and collection of loans, and monitoring the schools' administration of

the loan program. Under current law, the Federal government has no authority to collect money from individual borrowers, to have notes referred to the Federal Government for collection, or to select students who will receive awards.

The school's responsibilities in administering its loan program are quite explicit. The institutions are responsible for selecting the students for awards, processing the promissory notes, counseling the student on repayment obligations at the time the award is made, conducting exit interviews prior to a student's graduation from the institution, maintaining contact with the student during the period of postgraduate training when repayment has been deferred, and exercising due diligence as defined in the program guidelines. The institutions bear the cost of administering this program and may use moneys in the loan fund to pay for the litigation to recover loans and for the services of collection agencies when unable to collect loans from delinquent borrowers.

DELINQUENT DEPARTMENT EMPLOYEES

Since the focus of this hearing is delinquent Federal employees, let me review the steps we have taken to reduce the number of delinquent Department employees from the 80 originally identified by the OIG to the 14 still remaining.

Although the OIG initially identified 80 physicians employed by the Department and delinquent on their HPS loans from 26 of the 37 schools audited by the OIG, only 55 individuals actually had to be contacted by the Department, since the other 25 had become current at the time the Department checked the status of the loan account with the school. The 55 individuals were sent personal letters from Dr. Whiteside on April 9 urging that they make repayment arrangements with their institution within 30 days. At the end of the 30-day period, 22 individuals had complied and 2 were no longer employed by the Department, leaving 31 still delinquent as of mid-May. On May 25 the Executive Officers of the agencies of these 31 employees were sent letters by Dr. Whiteside requesting that the supervisors of these 31 individuals counsel the employees on the financial responsibilities of individuals employed by the Department. By mid-June all employees had been counseled and according to the schools 14 of the 31 had made repayment arrangements. By mid-July fourteen individuals had not made satisfactory arrangements with their institutions. Thirty days following each individual's counseling session, the remaining 14 employees were sent a second letter from Dr. Whiteside giving them one final opportunity to bring their accounts current before their names would be referred to their Agency Director for the initiation of disciplinary action.

Although the number of delinquent physicians employed by the Department had as of last week been reduced to 14, we have written to the schools and requested they notify us if any of the original 80 employees fails to remain current on their loan account. Should that occur, the employee will be sent a letter from Dr. Whiteside indicating that continued delinquency may result in disciplinary action. All of the subject borrowers have been notified to this effect.

While I cannot excuse the behavior of any of these Department employees, I am pleased to be able to report to you today that we have this problem in hand. I can assure you that should the OIG identify additional delinquent borrowers employed by this Department or elsewhere within the Federal government, we will immediately bring this Action Plan into operation.

OTHER ACTIONS INITIATED BY THE DEPARTMENT: PROGRESS TO DATE

As we promised on December 8, the Department has instituted an Action Plan which charted a course for reducing delinquency in the Health Professions Loan program. The plans outlined in the January 19 Action Plan are all underway.

In addition, we are seeking to address this problem through legislation:

The Department sent to Congress on July 12 a legislative proposal to grant the Internal Revenue Service authority to release the location of delinquent borrowers to the Department and institutions participating in the loan programs;

The Department has forwarded a legislative proposal to the Congress which would provide authority for a school, at the discretion of the Secretary, to transfer a note to the Federal government for collection.

Let me now briefly summarize the progress made on the activities described in this Department plan:

The Department has provided technical assistance to the schools in the form of site assessments which evaluate program operations, identify program strengths and weaknesses, improve program management, and make

recommendations regarding needed changes in program administration. During ahis fiscal year, the Department has plans for 345 assessments; to date 245 have been conducted.

The Department has under consideration a number of changes/additions to current HPSL regulations designed to require more fiscal accountability at the institutional level and assist the Department with its monitoring and collection functions. If approved, these regulations, which would be published in the Federal Register as a Notice of Proposed Rule-Making, would:

(1) require schools to use credit bureaus, collection agencies and litigation in collecting delinquent loans; (2) require the establishment of monthly repayment schedules; (3) mandate the inclusion in all promissory notes of acceleration clauses to be exercised at the school's option; (4) permit schools to grant forbearance in extraordinary circumstances such as in cases of unemployment or incapacitating illness; (5) set performance standards which require HPSL schools to achieve a delinquency rate of not more than 5 percent by June 30, 1983, define delinquent accounts as those more than 30 days overdue, and establish a uniform formula for computing borrower and dollar delinquency rates; (6) require the submission of quarterly reports on the status of the program and, (7) require schools to reimburse the fund for the Federal share of the loan for uncollectibles in which due diligence has not been exercised.

The Department has re-emphasized through a policy memorandum distributed to the schools in March the due diligence requirements of the "Student Financial Aid Guidelines." In addition, the Department has consistently refused to approve loan write-offs unless the school can document that due diligence has been aggressively pursued. We have encouraged schools to notify credit bureaus regarding delinquent borrowers. This was done in the recently distributed policy memorandum.

During the months of December 1981 and January 1982, the BHPDS requested the approximately 1,400 participating schools to verify the June 1981 delinquency data provided as part of the Annual Operating Report. On the basis of the new submissions, the Department recalculated both the dollar and borrower delinquency rates. The revised data were forwarded to this Sub-committee on February 24 and distributed to the educational associations the following week.

The Department is developing a quarterly report system to supplement the Annual Operating Report. The entire system will be automated to expedite the recording of data. With the new system we will have the capacity to review reports promptly and completely.

Departmental staff have met with financial aid and fiscal officers during the past 5 months at the regional and national meetings of the professional associations representing the schools of the health professions. At these meetings Departmental staff have instructed the individuals responsible for administration of these programs on specific corrective actions that need to be taken and informed them of the departmental actions regarding the loan program.

On a periodic basis information memos have been sent to the institutions regarding porgram policies, items of concerns, and issues to which the schools need to pay attention. Reaction from the institutions to these policy memos has been constructive and useful in the development of new policies and program regulations.

The Department is in the process of revising the "Student Financial Aid Guidelines" to incorporate many of the changes suggested to date to improve the administration of the HPSL program. Included among the modifications will be a policy to require litigation as part of due diligence when the amount to be collected is worth the cost of litigation. The revised Guidelines are expected to be available for distribution during the 1982–1983 academic year.

We have asked schools to identify those loans approaching the statute of limitations for purposes of initiating collection activity, including litigation.

In memoranda to all Deans regarding faculty with delinquent loans, Deans were encouraged to take whatever steps they deemed necessary to urge their faculty to repay their loans. The OIG identified 83 physicians who were employed by or affiliated with the institution from which they had a Health Professions loan on which they were delinquent. The OIG provided a list of these faculty to senior administrative officials at the respective schools

and requested that they take action at their institution to encourage repayment by the employee. Of these 83, only 10 are still in delinquency.

The Department is currently developing new regulations for the Health Education Assistance Loan (HEAL) program. As part of that process, the problems that have been identified in the HPSL program will be addressed directly in the HEAL regulations, in order to avert similar delinquency problems when HEAL loans enter repayment in large numbers.

As a result of these Department actions, the academic community and the borrowers have become increasingly aware that the Federal government is indeed serious about improving debt management and debt collection. Although we have not yet received the 1982 data, preliminary reports from the OIG indicate that collections are substantially improved from a year ago. The OIG found in its audit of medical schools that six schools had recovered $230,000 between February and April of 1982. About $91,000 was recovered during a comparable prior period at those same schools. One university which had 131 delinquent loans totalling $134,000 reported that 29 percent of these delinquencies totalling $38,860 have now been eliminated and partial payments are being made on another nine percent. Another university informed the IG that March 1982 collections more than tripled December, 1981 collections. A recent survey of selected medical schools indicates that overall collections for 1981–82 have increased over the 1980–81 period by 28 percent.

These increases have resulted largely from the spotlight of publicity which you, Senator Percy, have focused on this issue. We expect further improvements to occur as a result of policy changes we have just outlined and the legislative initiatives fostered by you and by the Department.

With this rate of progress, I am confident that by June of 1983, many institutions will have indeed met the performance standard. We appreciate your continued interest in these programs and look forward to continuing to work cooperatively with you and your staff.

PREPARED STATEMENT OF RICHARD P. KUSSEROW

Good morning. I am Richard P. Kusserow, Inspector General of the Department of Health and Human Services (HHS). I would like to thank the committee for providing me the opportunity to discuss the role my office has played regarding the Health Professions Student Loan (HPSL) program. My testimony this morning discusses that role from the perspective of our recent audit review.

The HPSL program, authorized under section 740–74 of the Public Health Service Act, establishes at each eligible school a revolving loan fund to be used for long-term, low interest loans to students. Under this program, the Department provides 90 percent funding with the institutions contributing the remaining amount. The Bureau of Health Personnel Development and Service, Health Services Administration, administers this program, by developing policy and guidelines, making awards to participating institutions and monitoring institutional administration.

The universities, on the other hand, have the major responsibility for making loans, and processing and collecting the promissory notes. It is the schools duty to collect all principal, interest and penalty charges from student borrowers. The school must exercise and document due diligence in the collection of delinquent loans, interest and penalties. In addition to exit interviews, billing on a regular basis and doing specific account follow-up, schools are permitted to use litigation and collection agencies to collect delinquent loans. At present, the law precludes the transfer of delinquent loans from the schools to the Federal Government for collection or government assistance in locating delinquent borrowers. The law also limits the penalty—interest payment—that can be assessed on the outstanding debt. Penalty charges for late payment are a maximum of $23 for the first year and $24 for succeeding years regardless of the delinquent amount.

Between January and March 1982, the Office of Inspector General made a detailed review of the HPSL program. Our efforts concentrated initially on medical doctors because of specific congressional interest, the high dollar value of the loans, and the high income level of this group. We selected, randomly, 37 institutions (universities with medical schools) in 8 regions representing 72 percent of the delinquent loans and 81 percent of the overdue principal. Our selection was based on loan data reported by the Public Health Service (PHS) which showed that as of June 30, 1981, there were 36,179 loans totaling $16.4 million in repayment status, and 5,716 delinquent loans with $4.4 million in past due principal.

In February 1982, PHS updated data indicated that medical doctor delinquencies were $5.2 million accounting for 6,698 delinquent loans.

Our review found the following problems:

1. PHS had problems in administering the program, particularly with regard to collecting delinquent loan principal totaling about $5.2 million as well as related interest and penalties. Their surveillance, monitoring and reporting activities were weak; the information provided by the school was unreliable; and better legislative tools for collecting were not sought.

2. There were serious deficiencies in various institutions' exercising "due diligence" in their collection process. School administrators did not:

Conduct exit interviews which establish a clear understanding of loan and payment amounts as well as repayment schedules;

Maintain contact with borrowers;

Bill regularly and follow-up on delinquent accounts;

Turn accounts over to collection agencies and use litigation as a collection measure;

Insure that promissory notes were properly prepared, signed and maintained; and

Monitor State laws to determine statute of limitations impact relative to the collectibility of debts.

3. Many delinquent doctors have sufficient resources to repay the loans. Our review indicated that some of the delinquent borrowers are employed by the Department, many with annual salaries exceeding $30,000; others were affiliated in a professional capacity with the lender institution.

As part of our review, we undertook a series of matches. In one match we compared delinquent doctors to persons employed by this Department. As pointed out in the Under Secretary's statement, this match identified 80 HHS employees delinquent on the repayment of their loans. Another match we undertook identified 442 delinquents who received $12.4 million in payment for services rendered under medicare/medicaid programs.

Our observations and matches led to several recommendations. Our more important recommendations were to:

1. Introduce legislation revising the PHS legislative proposal for increasing penalty charges to the maximum permitted by Federal law rather than that permitted by State law.

2. Expand the due diligence elements to include litigation against delinquent debtors. Litigation should be used when all other due diligence collection measures have been unsuccessful.

3. Emphasize to schools the measures that must be taken to satisfy due diligence requirements and provide close surveillnce to ensure their implementation.

4. Counsel debtors employed by HHS to pay off delinquent loans. If after counseling, the employee does not make arrangements to pay, initiate prescribed disciplinary action. Admonishment and dismissal are among the options which should be considered.

5. Upgrade the integrity of institution and Department reporting processes.

With the committee's permission, I would like to submit for the record a copy of our audit report which includes our other recommendations regarding this program.

Much has been done by the Department to implement our recommendations. Under the leadership of Secretary Schweiker, PHS has made substantial progress in reducing the outstanding debt, remaining. The Assistant Secretary for Health submitted action plans to reduce default rates in the HSPL and other student loan programs. Educational institutions have also beefed up their collection procedures, including greater use of collection agencies. Improved communications of successful measures used by schools with low default rates to those with high rates is a positive by-product of the Department's emphasis in this area.

The Under Secretary has already discussed the progress the Department has made in collecting debts due from Federal employees. Overall, we have observed substantial progress being made from students owing outstanding debts to medical schools. Within 1 month after initiating new collection procedures, $230,000 was recovered by 6 such medical institutions as compared to $91,000 during prior periods. If all schools participating in the program achieve similar results, loan delinquencies of $5.2 million would be eliminated in a year.

This concludes my testimony. I am available to answer any questions you may have regarding the Inspector General's role in this program.

Senator PERCY. In closing, we just want to thank all of our witnesses very much indeed. I don't know where we have held any hearings where we will have a higher cost-effective payout on them.

The bottom line is going to be that we are going to have a far better, more effective government, and we are putting some business-like practices in the business of running this Government at the business end of it as a business.

Thank you, very much.

[Whereupon, at 12:45 p.m., the subcommittee recessed, to reconvene at the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF JOHN L. PRESSLY, ASSOCIATE DEPUTY GENERAL COUNSEL, VETERANS' ADMINISTRATION

Mr. Chairman and Members of the Committee: I am pleased to testify before the Committee on Governmental Affairs.

At a time when all Federal agencies are seeking to reduce or eliminate wasteful and inefficient use of resources, it is certainly timely and appropriate to address the issue of collecting debts owed to the United States.

As you know, the President, the Administrator of Veterans' Affairs, the Congress, and many others in and out of Government are seriously concerned with the large number of debts owed the Federal Government. In particular, the VA is greatly concerned with collection and proper resolution of the sizable debt which has accumulated over the years in conjunction with the operation of veterans benefits programs. The bulk of this debt has resulted from participation in VA education benefit programs. These education debts arise from overpayments, or to a much smaller extent in terms of dollar value, defaults on education loans. In addition, there are overpayments in the compensation and pension programs as well as deficiencies in the loan guaranty program.

To give you a picture of the overall VA indebtedness as of June 30, 1982, the Agency maintained 1,411,152 accounts for $898,499,543 in active collection at its Centralized Accounts Receivable System (CARS) in St. Paul, Minnesota. Our system of accountability is located in Hines, Illinois, and maintains records for approximately 13 million veterans and dependents.

Debt collection and prevention is high on the list of priorities at the VA. Public Law No. 96–466 provided several very useful tools in the collection area and provided a statutory base upon which the Agency can address the issue of VA indebtedness. Plus, OMB Bulletin 81–17 requested each Agency and Department to establish debt collection officials and expressed the President's concern for a Government-wide collection program. I have been designated by Administrator Nimmo as the Agency Debt Collection Official and have been charged with the responsibility of identifying and coordinating the resolution of issues relating to debt collection. In this regard, I would like to discuss how the VA has responded to its overall debt collection and prevention responsibilities. Also, I would like to discuss our specific efforts in identifying and collecting VA debts from Federal employees.

In the area of debt collection, Public Law No. 96–466 provided authority to the VA to (1) offset from current benefits irrespective of the statute of limitations; (2) assess interest and administrative cost on delinquent accounts and those being paid by installments; (3) report delinquent accounts to Consumer Reporting Agencies; and (4) litigate debts arising from benefit programs. Agency progress in these areas are discussed below.

First, the VA has the common law right to offset indebtedness against current benefits. This recovery of moneys improperly disbursed is recovered in a quasi-contractual suit for unjust enrichment. Additionally, the Federal Claims Collection Act requires the Administrator to seek recovery of debts owed the Agency. With the enactment of Public Law No. 96–466, the VA now has its own statutory authority to offset benefits for debts owed. Proposed implementing regulations were published in the Federal Register on December 23, 1981, and will be finalized in the next few months. Currently we are offsetting 21,742 accounts for education debts, 29,261 accounts for compensation and pension debts, and 2,853 accounts for direct loan guaranty debts.

Second, final regulations implementing the charging of interest and administrative costs of collection were published in the Federal Register on December 22, 1981. The necessary functional and technical specifications are being developed

to complete the effort. The project is on schedule and a completion date of November 1982 is expected for the education accounts. This will represent 87 percent of the accounts receivable. The compensation and pension accounts will follow in October 1983. This split approach is necessary because of the complexity of the data processing systems involved at both Hines and St. Paul and the resource constraints.

Third, Public Law No. 96–466 directed the VA to conduct a litigation program, using VA attorneys where necessary, to pursue enforced collections of debts owed the Agency. A Memorandum of Understanding was signed by the Department of Justice and the VA giving the VA sole litigative responsibility for all debts where the amount of the debt is $1,200 or less. This program is conducted within the Office of General Counsel by utilizing offices of the 55 District Counsels.

At the time the Agency budget was prepared for Fiscal Years 1981 and 1982, we did not anticipate the expansion of the District Counsels' program as it now exists based on Public Law No. 96–466 and the Memorandum of Understanding. At that time, we anticipated monthly referrals to District Counsels of 6,000 accounts; however, now the referral rate is approximately 12,000 accounts per month. At the present time, 194,023 accounts for $121.4 million are pending in the various District Counsel offices. Of the 238,000 total accounts referred, 51,836 accounts for $34 million have been disposed either by payment in full, waiver, compromise, or termination. Also, 27,429 complaints for $16.8 million have been filed and judgments taken on 10,800 accounts for $7.0 million.

In November 1981, Administrator Nimmo allocated additional staffing for the District Counsel program. Currently, this program has 164 FTEE devoted to debt collection. This additional staff has eased backlogs and improved the ability to collect.

In spite of the initial problems in the District Counsel program, I believe considerable progress has been made. It was not until February 1981 that all District Counsel Office personnel had been trained in debt collection. Cash collections for fiscal year 1981 totalled $2.1 million. Cash collections for the first two quarters of fiscal year 1982 were approximately $3.5 million.

Fourth, reporting delinquent debtors to Consumer Reporting Agencies (CRA's) was authorized by Public Law No. 96–466. A Request for information was published in the Commerce Business Daily on July 21, 1981, and nine CRA's responded. We considered their responses and have requested additional data concerning a variety of issues, including their computer capacity and ability to utilize VA data. As you may be aware, any referrals to CRA's would have to be on an automated basis utilizing the VA's ongoing computerized system of records. I do not believe it would be economically feasible to begin protocopying and referring hard copies of files to CRA's.

Following the receipt of information from the CRA's interested in assisting the VA in collections, a Request for Proposal will be issued. This will include the writing of functional and technical specifications and the contracting with at least five CRA's in order to obtain nationwide coverage.

Mr. Chairman, the high default rate in the education loan program was instrumental in the termination of that program, except for the small number of loans to certain veterans enrolled in the flight training program. Thus, the VA has on hand 36,764 defaulted educational loans representing $32,883,906 which reside at the various Regional Offices. These loans are currently referred from the Regional Office to the District Counsel for enforced collection; however, they will be transferred to CARS this year to insure better management and control. Further, I believe it is mandatory that these defaulted loans be consolidated in CARS so that the VA and the veteran are provided a true account of the indebtedness to the Federal Government. Without appropriate controls, we would find ourselves pursuing an educational loan debt and an overpayment in two separate actions before the same judge.

Before I move into other areas of debt collection and prevention, I believe it would be appropriate to discuss the CARS unit within the St. Paul Regional Office and Insurance Center which is the focal point for debt collection activity. Most accounts receivable established in the Hines Master Record after January 1975 are under the jurisdiction of CARS. The only exceptions are the active records with overpayments, education loans (previously discussed), death cases and loan guaranty debts where the veteran has benefits available for offset. While Hines retains accountability for the accounts, CARS maintains a record until collection or disposition is effected.

After being established in the CARS record, receivable processing begins with a series of computer-generated letters sent to the veteran. These letters are recorded in the CARS records along with any other transactions (such as payments) processed against that record. Update of this record occurs daily and is controlled by an extensive diary system. CARS is responsible for replying to all correspondence received from the veteran after the receivable is established. Recently, this amounted to an average of 76,000 pieces of mail per month. With the reactivation of approximately 800,000 suspended accounts, this volume is estimated to increase to 186,00 pieces of mail per month. Locator actions, repay plans, audits, suspensions, waivers, compromises, etc., constitute the main portion of the CARS workload. Currently, the CARS unit is staffed with 157 FTEE. In fiscal year 1983, it is anticipated that approximately 180 FTEE will be needed to process the increased number of accounts and to implement the new debt collection initiatives.

Mr. Chairman, as you well know, many of the VA debtors are Federal employees. This was so amply demonstrated when in November 1980, the VA's Office of Inspector General performed "Project Match" to identify Federal civilian employees with outstanding delinquent indebtedness to the VA. It compared OPM records of certain civilian employees with VA debt records. The OPM records were current as of June 1980 and were matched with VA records of October 1980. This initial match identified 66,454 Federal employees who owed the VA almost $37 million primarily as a result of education benefit overpayments.

Of the 66,454 debts, 1,712 were defaulted educaton loans which were under the collection jurisdiction of the Regional Offices and not part of an automated system.

In July 1981, letters were sent to all Federal employees who had not made some arrangement for payment advising them of the debt and their waiver rights. (At that point in time, we were dealing with 45,074 accounts valued at $25.7 million.) These letters were mailed to the employee at the address furnished by the employing agency which in some instances was a central location rather than the actual place of employment.

This was the case with 9,548 postal employees. Letters were sent to 11 locations as indicated by the Postal Service and were then to be forwarded to the employee's workplace. However, these letters were returned because they could not forward without further identifying information. We are working with the Postal Service to establish a means of notifying their employees of the indebtedness.

In September 1981, letters were sent by the VA to the employers of the debtors who had not responded favorably to our initial letter. This letter requested the employers help in counseling the individual about the debt and their plans for repayment.

As of July 14, 1982, we had 26,019 accounts valued at $15.8 million where arrangements for repayment had not been made. A small number of these may have requested waiver of their indebtedness, however, our system does not track these cases as a separate group and I cannot give you an exact number at this time.

In July 1981, the Office of Inspector General sent letters to Federal Department and Agency heads with listings of indebted employees requesting that the employees be counseled and a repayment plan be established. We are hopeful that this added impetus will assist us in collecting these remaining debts.

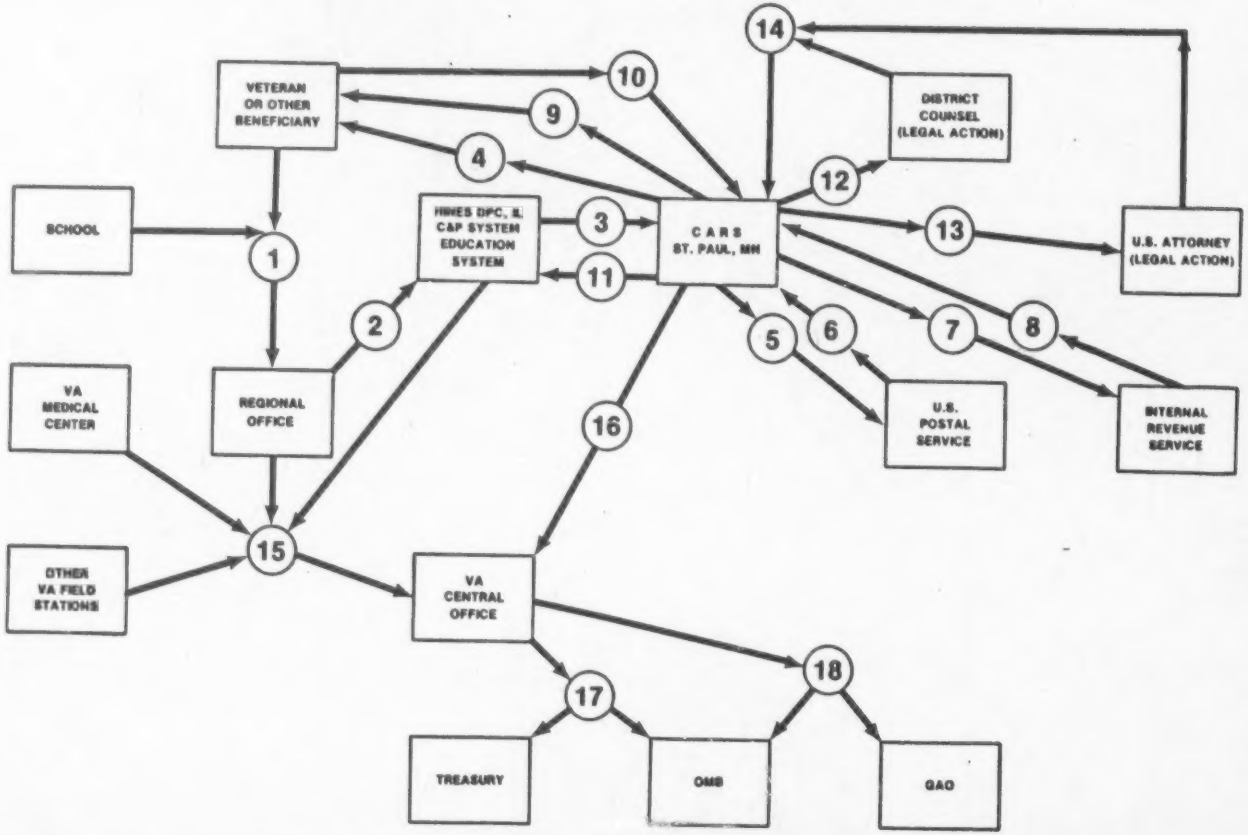
Mr. Chairman, in your letter of invitation you asked that I comment on section 5 of S. 1249, "Debt Collection Act of 1981," which would provide authority for the offset of Federal salary by debts owed the Federal Government.

On April 23, 1981, this Committee conducted hearings on S. 1249, at which Mr. Morris Silverstein, Deputy Inspector General of the VA and the Honorable David Stockman, Director of the Office of Management and Budget, appeared as witnesses, as well as others, and supported the offset provision. The VA continues to support the need for offset and believes that it will contribute greatly to resolving the large number of debts owed the VA.

Mr. Chairman, two charts accompany my testimony. One outlines the steps that are taken when an educational overpayment is created. The other chart describes the process the Agency follows in corresponding with the veteran in an attempt to collect the debt.

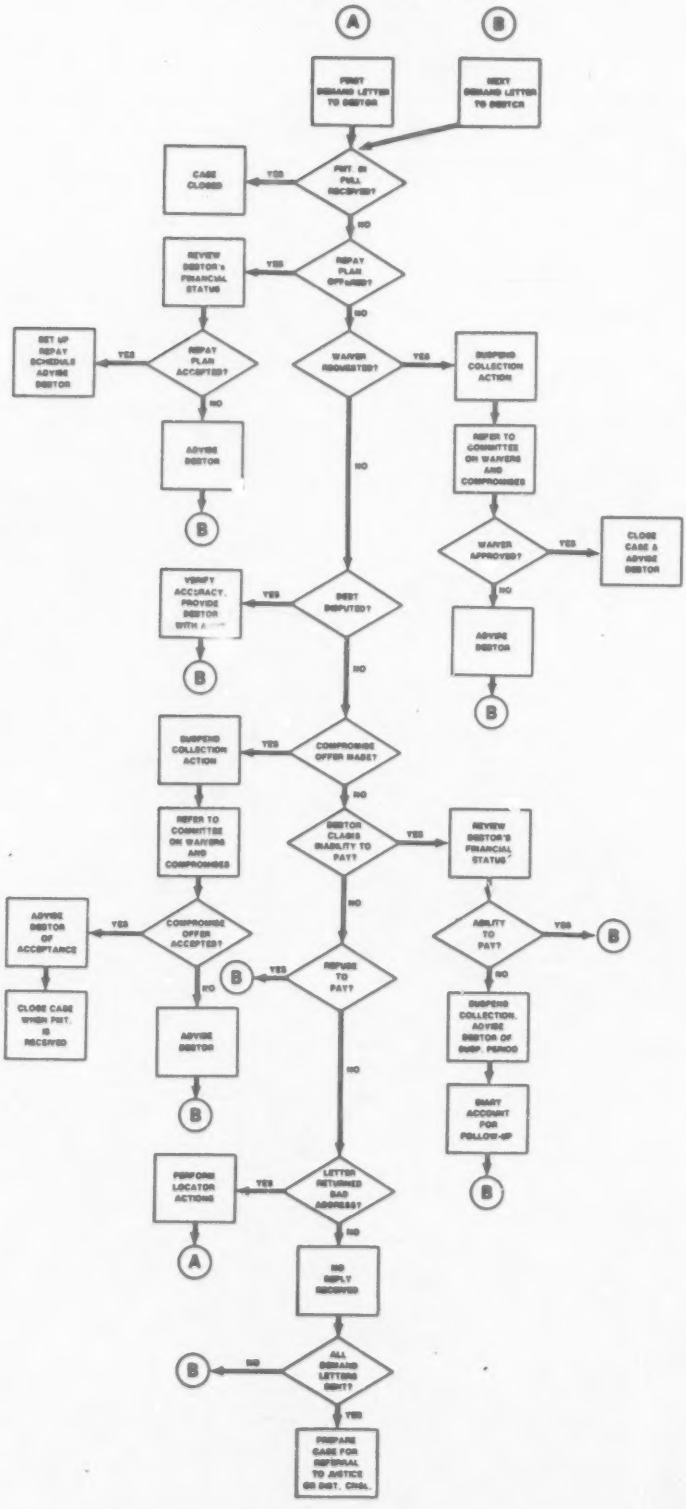
This concludes my testimony and I will be pleased to answer your questions at this time.

Tracking VA Educational Overpayment



1. School or Veteran or other beneficiary notifies one of 55 Regional Offices that training has been terminated.
2. Regional Office inputs transaction to Education System (Hines, Illinois) terminating training as of last day of attendance.
3. When transaction is processed by Education System, the System computes the amount of overpayment, records the receivable in the Education master record and passes a transaction to CARS (St. Paul, Minn.) to establish a CARS master record.
4. CARS generates first of three demand letters to debtor.
5. If letter is returned due to inadequate address, CARS generates a postal locator request.
6. Postmaster responds with new address or "No Record."
7. If postal locator is not successful, CARS generates a request for IRS address. This is on magnetic tape.
8. IRS returns good address.
9. After obtaining new address, CARS generates a demand letter to debtor at new address.
10. Debtor responds to demand letter by sending payment to CARS.
11. CARS deposits funds, reduces account receivable in the CARS master record and transmits a transaction to the Education System in Hines to reduce account receivable in the Education master record.
12. If debtor does not respond to three demand letters the account is referred to District Counsel for enforced collection, if $1200 or less.
13. If debt is over $1200, it is referred to appropriate U.S. Attorney.
14. U.S. Attorney or District Counsel obtains repayment agreement or judgment through the court and funds are sent to CARS for deposit.
15. VA Medical Centers, RO's, Hines DPC and other field stations submit accounting reports (Trial Balance, SF 224, etc.) to VA Central Office (VACO).
16. CARS generates statistical reports and forwards to VACO.
17. VACO consolidates accounting reports and submits Agency reports to Treasury, OMB, etc.
18. VACO analyzes and distributes statistical reports on accounts receivable.

Notification of Debt



REVIEW OF MEDICAL DOCTORS DELINQUENT IN REPAYMENT OF HEALTH PROFESSIONS STUDENT LOANS

INTRODUCTION

BACKGROUND

The Health Professions Student Loan Program (HPSL), authorized under Section 740-4 of the Public Health Service Act (42 U.S.C. 294m et seq.) establishes at each eligible school a revolving loan fund. The Department provides 90 percent funding with the institutions contributing the remaining amount. The fund is to be used for long-term, low-interest loans to students.

The Bureau of Health Personnel Development and Service (BHPDS), Health Services Administration (HSA) administers the HPSL and the Nursing Student Loan (NSL) programs. HSA makes awards to participating institutions, develops policies and regulations for institutions to follow in awarding and collecting loans, and monitors institutional administration. The schools are responsible for making loans and processing the promissory notes. The law precludes the transfer of delinquent loans from the schools to the Federal Government for collection or Government assistance in locating delinquent borrowers.

It is the schools' responsibility to collect all principal, interest, and penalty charges from student borrowers. The school must exercise and document due diligence in the collection of delinquent loans, interest, and penalties. Minimum measures constituting due diligence include:

-- Conducting entrance and exit interviews with the borrower;

-- Contacting the borrower twice during the grace period and 30 days prior to the first payment as a reminder of the obligation;

-- Billing on a regular basis; and

-- Following up five times on delinquent accounts and then turning them over to collection agencies.

Schools are permitted to use litigation to collect delinquent loans. Litigation and collection agency costs are payable from the corpus of the school's loan fund. Penalty charges for late payment are a maximum of $23 for the first year and $24 for succeeding years regardless of the delinquent amount.

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The law provides a one or three year grace period depending on when the loan was made. The grace period commences immediately upon completion of studies as a full-time student. Repayments are scheduled over a maximum 10-year period. The repayment period may be deferred for up to three years under certain circumstances--entry into the uniformed services or Peace Corps and undertaking advanced studies. Deferment must be requested by the borrower and approved in writing by the school. Schools may request permission from PHS to write off uncollectible loans. The request must be accompanied by documentation showing that due diligence has been used in an effort to collect--evidence of exit interview, billings and collection letters. If the request is approved, 90 percent will be written off against the Federal contribution to the revolving fund and ten percent against the school's share. If disapproved, the school must reimburse the fund the entire uncollectible principal balance and related interest.

In addition to loans authorized under the HPSL program, other health profession loans were made between 1968 and 1970 from a fund referred to as the Federal Capital Loan Fund (FCL). The FCL funds were established at eligible schools with resources totally furnished by the Department. Loans and collections were school responsibilities. However, unlike the HPSL program in which collections are retained in the school revolving fund, FCL collections were returned to the Department.

PRIOR ACTION TAKEN BY DEPARTMENT COMPONENTS

In February 1982, during the early stages of this audit, we identified several legislative and regulatory changes which would improve the Government's clout in obtaining loan repayments. These included:

-- Offsetting against delinquent debt, amounts due the debtor for services provided under Medicare, Medicaid, Refugee Assistance programs or grants and contracts;

-- Precluding delinquent debtors from participating in Department financed programs such as Medicare until their debts have been liquidated; and

-- Requiring applicants to certify that they are not delinquent in repayment of other Department or Federal loans or other assistance as a condition precedent to obtaining a loan or scholarship.

In addition, we advised the Secretary of several other measures, suggested by the General Counsel, which could be instituted by changing program guidelines. They include refusing to make further contributions to school loan funds where "due diligence" in collection has not been exercised, requiring schools to report delinquent names to credit bureaus/State licensing boards, and withholding recommendations or transcripts for delinquents.

The Assistant Secretary for Health also furnished you an action plan to reduce default rates in the HPSL and NSL programs. Certain noteworthy planned actions included:

-- Establishing a June 30, 1983, target date for schools to achieve a five percent delinquency rate for HPSL and a ten percent rate for NSL. Schools which did not achieve these rates would receive no new funds and be prohibited from making new loans;

-- Considering borrowers 31 days in arrears as delinquent rather than 120 days as before and requiring quarterly aging of delinquent accounts;

-- Submitting legislative proposals to provide authority for:

  o IRS to release location of delinquent borrowers to HHS and institutions participating in the loan programs;

  o Schools to transfer delinquent loans to the Federal Government for collection;

  o An increase in the interest charge for a late payment to the maximum allowable under State law; and

  o HCFA to reduce Medicare and Medicaid payments to delinquent HPSL borrowers to offset the dollars owed the Federal Government by the provider.

SCOPE OF REVIEW

Our review was made in accordance with standards for governmental auditing and conducted during the period of January 1, 1982 through March 12, 1982. We concentrated our efforts on medical doctors because of specific Congressional interest, the high dollar value of their loans, and the high income level of this group. We selected 37 institutions in eight regions representing 72 percent of the delinquent loans and 81 percent of the overdue principal. Our selection was based on loan data reported on November 21, 1981 by PHS which showed that as of June 30, 1981 there were 36,179 loans totaling $16.4 million in repayment status and 5,716 delinquent loans with $4.4 million in past due principal. Subsequently, on February 11, 1982, PHS furnished us refined data for medical doctors as well as other participants in the HPSL and NSL programs. This information now shows medical doctor delinquencies of $5.2 million. (See Attachment A)

The objectives of our review were to determine:

- effectiveness of PHS administration over the program;
- adequacy of PHS and institution collection efforts and attempts to assess penalty charges on late payments;
- delinquent borrowers and identify those that are employed by the institution, Federal Government, or are receiving payment for services provided under Medicare and Medicaid; and
- reliability of loan data reported by participating institutions.

HIGHLIGHTS OF REVIEW

PHS had problems in administering the program, particularly with regard to collecting delinquent loan principal totaling about $5.2 million as well as related interest and penalties. Their surveillance was weak, information provided by the schools was unreliable and legislative tools needed to foster better collection results were not proposed. These problems were compounded by the failure of several schools to exercise and PHS to enforce due diligence in collection efforts. Consequently, many debtors who have the ability to repay their loans have not done so.

PHS monitoring of school loan activities was impaired by annual reports from schools which contained inaccurate, incomplete, and inconsistent data--although PHS made site visits to schools, this surveillance did not fully disclose the nature and extent of report discrepancies nor trigger action to correct them. Even if school reports had been wholly accurate, PHS reports to a Senate Committee would not have shown the full extent of loan delinquencies--PHS omitted FCL loan delinquencies of about $1.7 million as of June 30, 1979 (the most current data available). We were told that monitoring recoveries of the FCL delinquent loans was minimal.

Further, when PHS became aware of schools using effective collection techniques, they did not inform other schools of these successful measures and urge their adoption. In addition, they did not aggressively seek legislative changes to provide the Government with tools needed for a more forceful collection program.

A principal deficiency in school administration of the program was failure to exercise due diligence in their collection efforts--required exit interviews with borrowers were not conducted; borrowers were not contacted during the grace period as required; billing of debtors was irregular; delinquent accounts were not turned over to collection agencies; and schools did not use litigation as a collection method. Also, schools do not request authority from PHS to write off uncollectible loans.

Little attention was paid, either by PHS or schools, to the impact of various State statutes of limitations relative to the collectibility of debt. Consequently, many loans may have or will become uncollectible. Statutes of limitations vary from State to State, but information was not readily available at PHS on the limitation periods. At the 37 schools reviewed there were 1,558 loans totaling about $2.6 million delinquent three or more years--423 ($557,989) three years; 296 ($451,866) four years; and 839 ($1,573,447) five or more years. At seven schools located in States for which we identified the statutory period there were 366 loans totaling $533,722 which may have become fully or partially uncollectible because of the application of the statute of limitations. Many schools, including three of the seven, do not use litigation as a collection device. Some schools which file suit did not take this action early enough to avoid the statute's applicability. In this connection there are 539 loans ($517,684) delinquent from two to three years. While little can be done to collect loans exceeding the statutory period, it is essential that prompt action be taken on these delinquencies to avoid the statute from taking hold.

After we brought this matter to the attention of PHS, they issued a letter on April 15, 1982 emphasizing that schools should initiate collection action promptly to prevent loans from becoming uncollectible because of statutes of limitations.

Many delinquent borrowers appear able to repay their loans. Our matches showed that 442 borrowers have received $12.4 million for services provided in 1980 and 1981 under the Medicaid and Medicare programs; 80 delinquent borrowers were employed by the Department, many at annual salaries exceeding $30,000; and 83 delinquents were affiliated with the lender schools. The failure to collect on these loans reduces the size of the schools' revolving funds and limits their ability to make new loans. This is particularly significant in a period of reduced Federal expenditures for student assistance.

Recent efforts initiated by the Secretary are beginning to pay off. We observed that $230,000 has been recovered by six schools since improved collection initiatives began in February 1982. About $91,000 was recovered during comparable prior periods. For example, Wake Forest University which had 131 delinquent loans totaling $134,000 reported that 29 percent of these delinquencies ($38,860) have now

been eliminated and partial payments are being made on another nine percent. The University of Mississippi informed us that March collections ($59,000) more than tripled December collections. Increased collections are attributed to recent attention given to HPSL loan delinquencies and related acceleration of collection efforts. If all schools participating in the program are achieving similar results, loan delinquencies of $5.2 million could be eliminated within a year. In addition to the immediate monetary benefit to the Government, these repayments defer the applicability of statutes of limitations.

The American Medical Association (AMA) has publicly supported aggressive collection action by the Federal Government. It funds a private loan program in which litigation against delinquent debtors is often used. They believe it is important that a loan program not acquire a reputation of being lax in collection.

Our findings at the 37 schools are discussed in detail in the following report section and summarized on Attachment B.

FINDINGS AND RECOMMENDATIONS

INADEQUACIES IN PROGRAM ADMINISTRATION

PHS administration of the HPSL program has been inadequate for several years. Little action was taken to strengthen it until early 1982 when the Secretary emphasized the need for improving collections and reducing delinquency rates. Monitoring of school loan activities was weak and ineffective. Further, PHS did not make regulatory changes or propose legislative changes which would facilitate the collection of delinquent loans and help reduce future delinquency rates. These changes are discussed in the report section "Prior Action Taken by Department Components" on page 2.

Also, program administration at the schools needed substantial improvement particularly with regard to carrying out the due diligence provisions of the law and regulations (see page 10). Loan data furnished PHS by the schools was often unreliable and not helpful for monitoring school administration and for reporting accurately to the Senate Committee on Governmental Affairs. Further, reported data omitted delinquent loans outstanding in the FCL fund. Illustrations follow:

-- Yeshiva University reported estimated data rather than actual data. We could not readily determine actual data because of inadequate supporting records.

-- Meharry Medical College reported as non-delinquent, 300 loans totaling $579,000 even though the status of these loans had not been determined. Our cursory review of 101 of these loans found 57 delinquent, 10 current, and 34 undeterminable based on the inadequacy of supporting records.

-- At Case Western Reserve University, the number of delinquent borrowers was understated by 25. The University classified borrowers as non-delinquent solely on the basis of their unsupported claims of deferral. Several institutions indicated that borrowers eligible for deferment failed to submit or return deferment forms and consequently were classified as delinquent. Although this is a proper classification, it distorts the delinquency picture. Also, borrowers were considered non-delinquent if they made partial payments on a delinquent balance within 90 days of the latest payment due date. This does not justify classifying the borrowers as non-delinquent.

-- Of the 37 schools in our sample, reports from two did not contain all the data needed to develop a delinquency rate. For the 125 participating medical schools nationwide, there were 10 in this category.

-- Omission of FCL data from information furnished the Senate Committee on Governmental Affairs resulted in distorting the value of delinquent loans in the HPSL program. Current statistics on FCL delinquencies were unavailable at PHS--a PHS official informed us that monitoring of this program has been minimal. June 30, 1979 statistics, the most recent available loan data, furnished us by PHS showed $1.7 million of FCL program loans delinquent more than 120 days. In our sample of 37 schools, there were 12 schools which had 420 delinquent FCL loans totaling $414,761.

-- New York University (NYU) classifies borrowers as delinquent if it has not received an installment payment within 180 days of due date; program guidelines specified 120 days. However, records at NYU indicate that there were no delinquencies in the 120-180 day range as of June 30, 1981. In addition, NYU did not consider delinquent 28 borrowers who were making partial payments on overdue loans.

Also, revised June 30, 1981 delinquency data furnished the Senate Committee on Governmental Affairs in February 1982 showed a lower overall delinquency rate than furnished the Committee in November 1981 for its December 1981 hearings. The February delinquency rate was developed on a different basis from the earlier data.

The November data showed 50,385 borrowers, at 1,079 schools, accounting for $23.1 million delinquent 90 days or more. The overall delinquency rate was 30.08 percent. The rate was developed considering only loans in a repayment status and delinquent loans. PHS, not having verified the data, doubted its reliability. Consequently, it requested and obtained revised institutional reports and refined the statistics for the Committee. These showed a larger number of delinquent borrowers (63,402) having past due loans of $30.6 million. The delinquency rate decreased from 30.08 percent to 20.22 percent because the base (denominator) used in the original calculation included only loans in a repayment status; the revised calculation also included loans fully repaid (95,217).

Also, there was a lower number of delinquencies reported in November because reports were not furnished or were incomplete for 372 schools. If delinquency rates had been computed on the same basis both periods, the rates would have decreased about one percent, from 30.08 to 29.02 percent. Effective July 1982, delinquency rates will be computed using the November calculation.

COLLECTION ACTIVITIES

The degree with which due diligence requirements of the HPSL program were carried out varied from school to school. Three schools pursued aggressive collection tactics. Some schools fulfilled most of the requirements but did not use all avenues of collection such as collection agencies or litigation. Most were extremely passive in their collection efforts. In addition, only one school (University of Pittsburgh) assessed a penalty on borrowers for failure to pay the total loan or an installment when it was due. As indicated earlier, the prescribed penalty charge is minimal and is a disincentive to repayment. Illustrations of collection deficiencies follow:

-- At 13 schools, documentation was not always available to show that exit interviews were conducted. For example:

School	Loan Files Reviewed	No Evidence of Exit Interview
Univ. of Virginia	15	2
Johns Hopkins Univ.	12	3
Univ. of Pennsylvania	10	3
St. Louis University	25	12
Hahnemann Med. College	19	19

Failure to conduct exit interviews makes collection more difficult. At St. Louis University one borrower who dropped out of the medical program graduated from another school as a lawyer. This borrower is now refusing to pay back his loan unless the school makes certain concessions on the interest charged. One of the borrower's claims is that he was not apprised as to when and how payments should be made. Institutions are required at the exit interviews to discuss with borrowers and provide a copy of their repayment schedule which covers the entire repayment period.

-- Documentation showing that borrowers were contacted during the grace period was not maintained by eight schools and at four others, borrowers were contacted only once. Regulations require that schools make at least three contacts with borrowers during the grace period. This contact is necessary to remind borrowers of their repayment obligation and to assure that a current address is maintained.

-- Four schools did not utilize adequate billing practices. In one case, New Jersey Medical College did not bill on a regular basis. Instead, borrowers received a repayment schedule and repayment vouchers just prior to the due date of the first installment. The schedule should have been furnished at the exit interview. In another case, the University of Miami did not maintain current addresses of borrowers and made no other attempts to locate borrowers when initial billing letters were returned as undeliverable.

-- Ten schools did not use collection agencies. These schools have 754 loans totaling $1.1 million delinquent two or more years. Many schools are hesitant to turn loans over to collection agencies. University of Pennsylvania delayed about 18 months before engaging a collection agency. They have now shortened the delay to eight months. The University of Pittsburgh referred only five of the 22 reviewed. PHS guidelines prescribe referral to collection agencies 121 days after the delinquency occurs.

-- Nineteen schools have not used litigation as a means of collection. At the other 18 schools, we identified 55 loans under litigation. Harvard stated that their legal counsel will not litigate such cases and they cannot get others who will. While litigation is not mandatory as part of due diligence procedures, the regulations permit it.

-- Thirty-six schools in our sample did not assess a penalty charge. Even if they did, collections would be well below that recoverable on the basis of current interest rates charged by commercial lending institutions and the Internal Revenue Service which charges 20 percent. At the 37 schools in our review, 64 percent of the loans were delinquent one year or more. Applying this percentage to 15,569 delinquent HPSL loans, the maximum annual late penalty would be $238,944 using the currently prescribed penalty rate.

If legislation permitted charging interest penalties on delinquent loans using the June 30, 1981, Treasury's Current Value of Funds rate of 17.7 percent, about $1.7 million could have been assessed on an annualized basis. If the same ratio of loans delinquent one year or more exists in the NSL program, the maximum penalty for both programs would total $973,080 as opposed to $4.6 million at a current interest rate.

-- In many instances, borrowers have made no payments on their loans and little was done by the schools to make collections. For example, at seven institutions we found 141 loans with original principal totaling $448,470 for which no payments had been made in over two years. The past due amounts for these loans totaled $273,345.

-- Many schools with obviously uncollectible loans (bankrupt individuals or loans exceeding statute of limitations periods) have not requested PHS permission for write-off. We believe they have not done so because they cannot document due diligence efforts and do not want to bear the full cost of the loan.

In a March 1982 memorandum to officials of schools participating in the HPSL and NSL programs, PHS pointed out the following deficiencies noted during their 1981 analysis of site assessments at 130 schools:

-- 29 percent used an inadequate needs analysis system;

-- 21 percent had poor accounting systems;

-- 24 percent utilized improper exit interview procedures;

-- 12 percent had irregular billing cycles;

-- 35 percent utilized inadequate procedures in following up delinquent borrowers.

Additionally, the assessments indicated that deferment forms and loan cancellations were improperly executed, or were not submitted promptly. The major purpose of this memorandum was to reemphasize that each institution has a major responsibility to develop and maintain sound records and control over the student financial aid programs.

Effect of Statutes of Limitations on Loan Collectibility

Timely initiation of legal action to collect delinquent loans is an important step in the collection process. Otherwise, State statutes of limitations bar suit. Since the schools make the loans and do not assign the notes, the limitation period is governed by the law of the State in which a school is located. For example, the statute of limitations on debts is three years in the District of Columbia and Maryland; four years in California; and five years in Virginia.

Our review showed 1,558 out of a total of 4,711 delinquent loans were overdue three or more years as follows:

Years Delinquent	Delinquent Loans Number	Value
3	423	$ 557,989
4	296	451,866
5 and Over	839	1,573,447
	1,558	$2,583,302

Information was not readily available at PHS as to the statute of limitations period in all 22 States included in our review. However, for four of the States we found:

-- Two schools in the District of Columbia had 235 loans past due more than three years ($310,449). Their total delinquencies amounted to $701,000.

-- Two schools in Maryland had 79 loans past due more than three years ($112,470). Their total delinquencies amounted to $221,000.

-- Two schools in Virginia had 22 loans past due more than five years ($48,408). Their total delinquencies amounted to $248,000.

-- One school in California had 30 loans past due more than four years ($62,395). Its total delinquencies amounted to $106,000.

We noted also that 19 schools have never initiated legal action against delinquent borrowers. These include three of the seven schools above (Johns Hopkins University - 14 loans, $27,788; University of Virginia - 23 loans, $41,192; and Virginia Commonwealth University - 86 loans, $107,886). The other 16 schools had 884 loans totaling $1,495,599 delinquent three or more years.

In addition, there were 539 loans ($517,684) delinquent from two to three years--368 loans ($351,742) were made by schools which do not use litigation as a collection tool. Little can be done to collect on delinquent loans which exceed the pertinent statute of limitations. Consequently, it is extremely important that all available collection measures, including litigation, be taken before the statute becomes applicable. For example, one school which used litigation did not file suit early enough to enable it to obtain a judgment. Another school which may share this outcome is awaiting a final judicial decision. Specifically:

-- At the University of California-San Francisco, failure to file for recovery before the statute of limitations took effect resulted in the uncollectibility of part of one loan. Quarterly payments on this loan were to begin in October 1973; however, no payments were made and no suit was filed until March 1981. Consequently, repayments due prior to March 1977 ($1,762) were barred from collection under California's four-year statute of limitations. In that State, the statute applies to each installment payment; therefore, repayments due after March 1977 are still collectible.

-- At St. Louis University, the court is still considering the applicability of the statute of limitations as a defense against a delinquent loan of $1,527 including interest.

Successful Collection Efforts

Not all schools are experiencing difficulty in collecting loans. About 20 percent of the 125 medical schools have a delinquency rate of five percent or less. Various successful measures were used by them to aid in collecting past due amounts. For example, the University of Iowa, which closely follows the HPSL guidelines, uses attorney's letters, two collection agencies, and litigation to pursue delinquent borrowers and shows a positive attitude toward collection. In one instance, the school's collection officer visited a doctor's office to discuss his loan delinquency. Iowa has a 3.1 percent delinquency rate. Other schools which also show respectable collection efforts include:

-- Brown University and Dartmouth College both have computer terminals with automatic tie-ins to credit bureaus and use in-house Mail-Gram machines for contact with delinquents. Their delinquency rates are 1.9 and 4.2 percent, respectively.

-- In an effort to reduce delinquencies, the University of California system uses offset effectively. As a State agency, the University is able to take advantage of a law which allows it to offset amounts due against any amount a State agency owes an individual. University officials said that during 1980 State income tax refunds of about $991,000 were offset against delinquent loans.

PHS did not attempt to identify and disseminate to other schools successful collection measures and encourage their use.

MATCHES

We made a series of computerized and manual matches to determine whether and to what extent delinquent borrowers may have the resources necessary to repay their loans. These matches identified delinquents employed by the Department and schools as well as amounts paid delinquents for services under the Medicaid and Medicare programs. The results underscored the need for legislative changes. Data developed through the matches was provided to PHS and the schools to enable them to assure its complete accuracy and validity; assist them in their collection efforts; and provide PHS a basis for initiating legislative proposals. Using this information, PHS will contact Department employee-delinquents directly and has begun working with the schools to intensify collection effort. In addition, we furnished PHS a listing, including name and Social Security Number (SSN) of all delinquent borrowers identified by our review.

We plan to make a further computerized match of delinquents against the Federal payroll when pertinent data is available. When completed, the data will be referred to PHS for further collection action. Details on our matches follow.

Department Payroll Match

The match, which covered 4,041 borrowers for whom SSNs were available, showed:

-- Forty delinquent doctors were civilian employees of the Department. Salaries for 36 ranged from $14,460 to $48,950 (21 exceed $40,000). The remaining four were employed as consultants earning $100 to $160 per day. The past due principal and interest amounted to $34,025 and the period past due ranged from three months to over seven years. One consultant, who is paid at $160 per day, has made no payments to NYU on a loan for eight years and as of November 30, 1981 owes $2,730.

-- Forty delinquent doctors were PHS commissioned officers. Annual base pay ranged from $22,140 to $39,396. The past due principal and interest amounted to $33,592 and the period past due ranged from three months to over five years. One commissioned officer has made no payments to Howard University in five years on a $1,650 loan and as of November 30, 1981 owes $1,375.

Department Standards of Conduct regulations state that the Department considers the indebtedness of its employees to be a personal matter. However, employees shall not reflect adversely on the Government as their employer by failure to meet their just financial obligations. Accordingly, disciplinary action, ranging from admonishment to removal, may be considered when employees after counseling do not make arrangements to meet their financial obligations.

School Faculty Records Match

Matches showed that 83 delinquent borrowers had appointments or were employed at 19 institutions. The majority of these were at Harvard University (25), University of Illinois (11), University of Mississippi (7), University of California (6), Wake Forest University (5), Ohio State University (5) and by Meharry Medical College (5). The remaining 19 delinquent borrowers were at 12 institutions. The match data was turned over to the respective institutions who told us they would take appropriate collection action. On March 22, 1982, Harvard informed us that, as a result of their current actions, twelve of the 25 are now making accelerated payments; six are now fully up-to-date in their repayments; and the University is communicating with seven others to resolve uncertainties as to amounts due and arrange for repayment.

Match to Medicaid/Medicare Payment Records

During 1980 and 1981, payments of $12.4 million ($6.6 million for Medicaid and $5.8 million for Medicare) were made to 442 doctors who were $506,828 past due on their loans. The $12.4 million is applicable only to physicians receiving direct payments from State agencies or private carriers. Payments were also made to group practice organizations or corporations but data on payments to the individual participants was not available. For example, 16 delinquent borrowers from schools in Pennsylvania (12), Virginia (1), and the District of Columbia (3), were associated with group practices which received $6.7 million from Medicare/Medicaid. The physicians owed $11,145 in past due principal delinquent from 90 days to about six years.

Examples of delinquent borrowers receiving Medicare/Medicaid payments follow:

-- One borrower, delinquent over 25 months on a loan at New York Medical College and past due $931.24 including $121.76 interest, received $99,109 from Medicare and $252,563 from Medicaid in 1980 and 1981.

-- Another borrower, delinquent over four years on a loan at the University of Illinois and past due $2,189.74 including $439.74 interest, received $134,459 from Medicaid in 1980 and 1981.

-- A third borrower, delinquent 42 months on a loan at the University of Miami and past due $1,428 in principal, received $253,056 from Medicare in 1980 and 1981.

Inter-institutional Match of Delinquent Borrowers

The purpose of this match was to determine to what extent borrowers may be delinquent on loans to more than one school. We found nine borrowers delinquent on loans from two schools. For example, one borrower delinquent over six years on a loan at NYU for $900 in principal and interest was also delinquent $3,800 in principal and interest over three years at the University of Pittsburgh. However, the first loan was not delinquent when the second was made. If the schools are unable to collect by all other means, litigation may have to be undertaken separately in two States.

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Where a student attends one school throughout, separate loans for each year are generally made--these loans often are not consolidated necessitating separate repayment schedules for each loan. Not only does this cause additional paperwork for the school but may also create confusion on which loan should be credited when the borrower does not specifically identify to which loan a payment applies.

Recommendations

Several actions necessary to strengthen the HPSL program particularly in the area of collecting delinquent loans and reducing delinquency rates, are covered by the February 1, 1982 PHS action plan as well as recent OIG recommendations (Attachments C and D). These reports presented our preliminary perspective of collection deficiencies and the legislative as well as Departmental actions that were necessary to help overcome these problems. We recommend that you direct the Assistant Secretary for Health to fully implement those measures already proposed and move immediately to:

- o Introduce legislation:
  - -- Revising the PHS legislative proposal for increasing penalty charges to the maximum permitted by Federal law rather than that permitted by State law;
  - -- Exempting Federal student loans from coverage under State statutes of limitations; and
  - -- Making the entire loan balance payable after installment payments have been delinquent for a specified period.
- o Expand due diligence elements to include litigation against delinquent debtors. Litigation should be used when all other due diligence collection measures have been unsuccessful.
- o Emphasize to schools the measures that must be taken to satisfy due diligence requirements and provide close surveillance to ensure their implementation.
- o Require schools to identify delinquent loans approaching the statute of limitations period. For those so identified, promptly initiate aggressive collection action including litigation to avoid use of the statute as a defense against repayment.

- o Obtain from schools details of all uncollectible loans. Where appropriate, authorize schools to write off uncollectible balances. If write-off is inappropriate, recover from schools the Federal share of uncollectible loans.

- o Encourage States to establish provisions, similar to California, permitting offset of State tax refunds against delinquent loans.

- o Counsel debtors employed by HHS to pay off delinquent loans. If after counseling, the employee does not make arrangements to pay, initiate prescribed disciplinary action. Admonishment and dismissal are among the options which should be considered.

- o Encourage schools to offset salaries of delinquent debtors on the school faculty against delinquent loans.

- o Emphasize the need for schools to consolidate loans to facilitate the collection process.

- o Include in PHS reports on the status of HPSL activities information on Federal Capital Loan program delinquencies.

- o Exclude fully repaid loans from computation of delinquency rates effective with reports due June 1982 and report all loans in arrears 31 or more days as delinquent.

- o Review promptly reports submitted by schools for accuracy, completeness, and consistency and, where appropriate, obtain refined data.

- o Disseminate to all schools effective techniques used by other participants to effect and maintain low delinquency rates.

- o Determine to what extent publicity can be used, within the purview of the Privacy Act, as a means of encouraging loan repayment.

- o Apply improved procedures, where applicable, to other PHS loan and scholarship programs.

HSA/BHPDS DATE: 02/11/82
LISTING OF DATA FROM 1981 ADDENDUM N AFTER DISCIPLINE MEANS DATA VERIFIED
% DELINQUENT BY NEW GAO CALCULATION**

DISCIPLINE TOTALS	BORROWERS(a) NON-DELQ	DELQ	% DELQ	AMT LOANED	PRINCIPAL REPAY/CANCEL	PRINCIPAL OUTSTANDING	PRIN DELQ AS OF 6/81	PRINCIPAL UNCOLLECTABLE
*** GRAND TOTAL ***	250232	63402	20.22	734,636,550	234,733,793	500,677,644	30,586,847	5,779,865
MODVOPP	116873	15569	11.76	474,182,639	126,368,594	348,564,760	11,461,220	2,059,239
M/O	57139	7038	10.97	262,272,776	63,855,789	199,167,702	5,468,372	896,798
ALLOPATHIC MEDICINE	52355	6698	11.34	246,641,408	58,250,935	189,141,188	5,197,145	792,806
OSTEOPATHIC MEDICINE	4784	348	6.64	15,631,368	5,604,854	10,026,514	271,227	103,992
DENTISTRY	26261	3708	12.35	110,346,310	33,902,057	76,444,253	3,065,958	837,368
OPTOMETRY	3721	626	14.40	14,298,680	4,039,126	10,259,554	501,660	34,124
PHARMACY	21035	3177	13.12	57,102,967	16,013,514	41,089,453	1,757,037	198,876
PODIATRY	2050	599	22.61	7,073,577	1,670,550	5,403,027	466,265	13,041
VETERINARY MEDICINE	6667	429	6.05	23,088,329	6,887,558	16,200,771	201,888	79,032
NURSING	133359	47833	26.40	260,473,911	108,365,199	152,112,884	19,125,627	3,720,626
ASSOCIATE NURSING	38719	21021	35.19	69,605,381	27,493,792	42,115,761	7,988,046	1,445,298
DIPLOMA NURSING	29457	7853	21.05	47,276,878	22,572,404	24,704,474	3,338,237	876,204
BACCALAUREATE NURSING	63764	18551	22.54	148,129,531	57,879,660	83,849,871	7,688,469	1,359,878
GRADUATE NURSING	1419	408	22.33	5,462,121	1,219,343	2,242,778	110,877	39,248

** % DELINQUENT = $ DELINQUENT / ($ DELINQUENT + $ RETIRED + $ IN REPAYMENT)

(a) Represents number of loans

ATTACHMENT A

HEALTH PROFESSIONS STUDENT LOAN PROGRAM
OVERVIEW OF AUDIT RESULTS BY INSTITUTION
(Medical Doctors)

($'s in thousands)

Institutions	Total Delinquent Loans	Total Delinquent Borrowers	Total Delinquent Amount	Delinquent Over One Year Number	Delinquent Over One Year Amount	MATCHES Medicare/ Medicaid	MATCHES IRS Payroll Comm. Officer	MATCHES IRS Payroll Civilian	MATCHES (a) School Faculty	All Due Diligence Requirements Taken Yes	All Due Diligence Requirements Taken No	Use Collection Agencies Yes	Use Collection Agencies No	Use Litigation Yes	Use Litigation No
REGION I															
Boston University	111	105	$ 96	55	$ 76	5	-	2	-	X		X		X	
Brown University	2	2	3	1	1	-	-	-	-	X		X		X	
U/Connecticut Health Center	14	14	10	9	9	-	-	-	-		X		X		X
Dartmouth College	8	8	3	3	2	-	1	-	-	X		X		X	
Harvard University	242	218	180	143	153	18	1	2	25	X		X			X
U/Massachusetts Medical School	27	27	4	-	-	-	-	-	-	X		X			X
Tufts University	119	102	63	40	44	6	1	1	-	X		X		X	
U/Vermont	56	56	41	17	30	16	1	-	1	X		X		X	
Yale University	46	46	167	28	99	2	3	1	-	X		X			X
REGION II															
New Jersey Medical College	44	44	55	36	49	5	-	1	-	X		X			X
New York Medical College	137	137	177	-	-	31	-	-	1	X		X		X	
New York University Medical School	34	34	39	24	36	3	-	-	1	X		X		X	
Yeshiva University-NY	52	52	50	-	-	5	-	1	-		X		X		X
Region III															
George Washington University-DC	188	165	106	31	69	4	2	1	3		X		X	X	
Hahnemann Medical College-Pa	176	115	169	115	158	6	-	-	-	X		X			X
Johns Hopkins	57	54	47	30	37	1	1	2	1	X		X			X
Howard University	693	614	595	592	585	28	9	15	-		X		X	X	
U/Maryland	239	186	174	107	144	8	1	2	-	X		X		X	
U/Pennsylvania	71	71	93	31	80	1	1	1	-	X		X		X	
U/Pittsburgh	81	72	95	60	90	2	1	-	-	X		X		X	
U/Virginia	75	69	69	47	59	6	-	1	2		X		X		X
Virginia Commonwealth University	214	190	179	165	168	33	5	1	-		X	X			X

(a) Employed by or otherwise affiliated with the school.

HEALTH PROFESSIONS STUDENT LOAN PROGRAM
OVERVIEW OF AUDIT RESULTS BY INSTITUTION
(Medical Doctors)

($'s in thousands)

Institutions	Total Delinquent			Delinquent Over One Year		MATCHES				All Due Diligence Requirements Taken		Use Collection Agencies		Use Litigation	
							HHS Payroll								
	Loans	Borrowers	Amount	Number	Amount	Medicare/ Medicaid	Comm. Officer	Civilian	(a) School Faculty	Yes	No	Yes	No	Yes	No
REGION IV															
U/Florida	79	72	$ 84	49	$ 75	10	-	2	1		X		X		X
Meharry Medical College	447	413	420	404	413	14	5	2	5		X	X			X
U/Miami	183	183	288	132	262	43	-	-	2		X		X		X
U/Mississippi Medical Center	132	120	126	94	113	33	1	-	7		X	X			X
Wake Forest University-NC	131	128	134	105	128	9	1	-	5		X		X		X
REGION V															
Case Western Res. University-OH	41	41	61	32	52	4	-	-	1	X		X		X	
U/Illinois Medical Center	277	277	297	198	274	62	2	2	11		X		X		X
U/Minnesota	77	77	109	53	95	6	-	-	1	X		X		X	
Ohio State U	161	153	65	42	44	20	1	2	5	X		X		X	
Medical College of Wisconsin	62	61	94	62	94	7	-	-	-		X	X			X
U/Wisconsin-Madison	113	113	176	103	169	13	-	1	1		X		X		X
REGION VII															
U/Iowa	35	35	18	22	15	2	-	-	-	X		X		X	
St. Louis University	93	72	99	76	97	2	1	-	-	X		X		X	
REGION IX															
U/California-SF	101	93	106	73	100	21	1	-	6	X		X		X	
REGION X															
U/Washington	93	74	56	52	43	16	1	-	4	X		X			X
TOTALS	4,711	4,293	$4,548	3,013	$3,863	442	40	40	83	23	14	27	10	18	19

(a) Employed by or otherwise affiliated with the school.

DEBT COLLECTION PRACTICES IN SELECTED PUBLIC HEALTH SERVICE LOAN, SCHOLARSHIP AND AWARD PROGRAMS

EXECUTIVE SUMMARY

The Office of Inspector General (OIG) has conducted a review of the payback provisions for selected Public Health Service (PHS) student loan, award and scholarship programs, as well as the Department's current claims and collections process to recoup debts owed to these programs. The OIG initially was interested in the waiver component of the payback provisions (due to a recent review of regulations on such provisions for the National Research Service Award Program administered by PHS), but found the payback provisions to be a minor concern when compared to deficiencies uncovered in the PHS debt collection process.

The programs selected for review have payback provisions required by statute, and included: Health Professions and Nursing Student Loans, National Research Service Awards, National Health Service Corp Scholarships, Indian Health Service Health Professions Scholarships, and the Physicians Shortage Area Scholarships. Each of these programs - except for the student loans - were begun in the mid-seventies and are just beginning to feel the surge of individual debtors whose debts are now coming due and who are either unable or unwilling to meet their obligations. With high interest rates and major financial commitments having been made to meet the rising costs of tuition, etc., debts owed to the Federal Government for these programs can reach the hundreds of millions of dollars in the very near term. This is especially true with service corp commitments involving triple damages.

Despite this, the OIG found HHS's debt collection practices for these programs to be slow, ineffective, and costly. Policies and procedures do not seem to exist across the board for PHS debt collection activities, and specifically do not exist for the programs reviewed. The procedures that are in place -- on an ad-hoc basis -- are outdated, inadequate, and do not capitalize on practices routinely used in the commercial sector. These findings support the General Accounting Office (GAO) report recently issued: "The Government Can Be More Productive in Collecting Its Debts by Following Commercial Practices".

In addition to a lack of policies and procedures, there exists an excessive layering of offices involved in the handling of PHS claims which review and massage the claims files without adding anything to the process. In many cases, they simply duplicate what has already been done before - and unsuccessfully.

The Office of General Counsel (OGC) is also involved in the processing of claims - either in the role of the Departmental Claims Officer, or in a program support function. While neither office has made claims processing or debt collection an important function of their office, they apparently have been able to make do as long as they receive a small number of claims for action. If, however, the claims area begins to expand and grow in the area of receivables past due, as well as in the legal complexities of obtaining the just debts owed to the Federal Government, the OGC will need to rise to meet the challenge.

Finally, the OIG looked briefly into the student loan programs and found that these programs had an even lower priority in terms of PHS oversight and concern for past due indebtedness. It was felt by PHS program managers that the past due amount of some $16 million - as reported by the schools - was low, and anyhow, that in 1983 the program was slated for phasing out as provided for by law. Procedures did not exist to provide adequate oversight or control of problem schools nor an assessment of the debt collection practices in place.

The OIG made recommendations as follows:

- o Develop Departmental policies and procedures for debt collection from top to bottom for PHS programs in general, and the targeted programs in particular. (Specific claims processing procedures were listed, - e.g., "obtain credit report on cases prior to referral for litigation".)

- o Redelegate Secretary's authority - as authorized under the Federal Claims and Collection Act - to the PHS to compromise, suspend or terminate collection activities on PHS claims, and permit OGC-PHS Division to work directly with the Department of Justice, U.S. Attorneys and GAO on the referral and follow-up of claims. Subsequent to release of this report in draft, a redelegation of the Secretary's authority to PHS was implemented.

- o Explore additional service options for the National Health Service Corp and Indian Health Service Corp Scholarship programs so as to prevent and reduce future defaults in these programs.

- o Develop necessary debt collection practices for the student loan programs - as appropriate; explore probability that the programs will phase out of existence in 1983; and conduct a select number of HHS directed audits at participating schools to determine program compliance. (Additional specifics are detailed in body of report).

- o Develop a Secretarial Debt Management Initiative to develop and improve the management of debts owed to the Department. The Office of the Assistant Secretary for Management and Budget, the Office of General Counsel, and the OIG stand ready to assist in such an effort.

The Public Health Service, Office of General Counsel and the Office of the Assistant Secretary for Administration and Budget concurred in our recommendations and indicated that they planned to undertake appropriate follow-up action.

DEBT COLLECTION PRACTICES IN SELECTED PUBLIC HEALTH SERVICE LOAN, SCHOLARSHIP AND AWARD PROGRAMS

I. Background

The Office of Inspector General (OIG) was recently asked to provide comments on regulations for payback provisions for the National Research Service Award Program administered by the Public Health Service (PHS). The OIG staff found the waiver component of the provisions to be vague, and felt that clearer guidance would be necessary to allow for uniform, responsive implementation of waiver requirements by program staff. Since the OIG has had extensive involvement over the past three years with similar loan and grant programs administered by the Office of Education, it was interested in applying the lessons learned through a review of a select number of like programs in the PHS. But the initial interest in the waiver provisions was found to be of a lesser concern than that of the debt collection process for these programs. Accordingly, the scope of the review was expanded to address the broader questions and concerns relating to major weaknesses uncovered in the PHS claims and collections process.

II. Scope of Review

The OIG selected for its exploratory study a small number of loan, scholarship, and award programs administered by PHS for which payback provisions were required by statute. The programs reviewed included: Health Professions and Nursing Student Loans, the National Research Service Awards, National Health Service Corps Scholarships, Indian Health Service Health Professions Scholarships, and the Physicians Shortage Area Scholarships.

The review focused on the payback requirements for each program, and the claims and collection process in place to recoup debts owed the Federal government. Interviews were held with program staff directly responsible for administering or monitoring the programs; finance office personnel involved in the collection process; the PHS Claims Officer; and Office of General Counsel representatives in PHS and the Business and Administrative Law Division, including the Departmental Claims Officer. A listing of individuals interviewed is found in Appendix A.

Since policies and procedures for debt collection in PHS did not exist on paper for these programs (except for the very general procedures in the HEW General Administrative Manual), the process in place was determined through interviews and requests for backup materials as necessary. Individual case files were not extensively reviewed; however, various staffs were requested to provide typical case files for purposes of the survey.

A brief description of the findings of the study on a program by program basis is provided, as well as an assessment of the state of the overall claims and collection process in the Department vis-a-vis these programs. A final analysis of problems uncovered the recommendations to assist in resolving these problems is provided by the close of the report.

III. Program Findings

A. Student Loan Programs Administered by Health Resources Administration (HRA):

Within HRA, the Bureau of Health Manpower (BHM) administers two needs based loan programs -- the Health Professions Student Loan Program and the Nursing Student Loan Program -- whereby long term, low interest loans are provided to eligible students to enable them to pursue a course of study in specified health professions. Funds are allocated to participating schools for the purpose of capitalizing a student loan fund. Once operational, the school administers the loan program under the guidance and direction of HRA.

Upon completion of training, the student either repays to the school the dollars received plus appropriate interest, or repays the debt through various service repayment options made available through statute. Depending on the loan program's specific requirements - which have been modified by Congress at various points in time, the funds originally received for training can be "worked off" by providing, for example, health service in a medically underserved area.

Payback Requirements: While defaults seem to be occurring in relatively small numbers in the loan programs, there are currently no provisions under the law either permitting a write off by the school of uncollectable accounts or allowing transfer of these defaulted accounts from the schools to the Department for collection action as appropriate. One exception to this exists with cases of death or permanent disability of a borrower whereby the loan account is cancelled.

Instead, participating schools report to BHM the total dollar value of loan accounts that are at least 120(+) days overdue. There are some $16 million in this category. BHM is unclear as to what the $16 million represents, e.g., old uncollectable accounts past the statutes of limitations versus more active accounts in a temporary overdue status.

Inadequate Management Controls: BHM seems to exercise little control over the schools' administration of these loan programs, and depends to a large extent on the capabilities of the individual schools to operate the loan funds effectively and within the intent of the law.

It conducts a minimal number of site visits by program officials; but rather, it relies on a pool of financial aid consultants to visit target schools and provide a report to BHM and the school of their findings. The consultants are initially selected based on 2 letters of recommendations of their peers or a letter of recommendation from a consultant already in the pool. The geographic area which they service and the subsequent timeliness and quality of their reports also enter into the picture. It is unclear as to whether any evaluation plan exists to assess the overall effectiveness of the use of financial aid consultants. Funding for the pool is now dependent on availability of Bureau of Health Manpower operating funds - which when cut as they were in FY 80, has resulted in zero dollars available so far for FY 80. In better years, consultants were sent out to the schools until the funds dried up. For example, in FY 79, 275 assessments were made prior to dollars being expended.

While a biennial audit is required for each participating school (some 1,300), there are no audit guidelines in place for the programs. This generally results in a rather narrow audit report. With about 650 audit reports required to be filed yearly, as well as quarterly financial statements submitted by the schools, the BHM staff reported that it was virtually flooded. In December 1979, they had just finished reviewing the 1975 audit reports, and did not expect to be current until at least June 1981.

A manual exists which provides general guidelines to participating institutions regarding program requirements, and further explains the statute and regulations in place. When reviewed, it was found that the collections chapter does not follow recognized commercial collections procedures, and depends too heavily on the individual discretion of the participating schools with regards to the collection process.

While the BHM program staff admit to a certain degree of management problems at the school level, there are no procedures in place to select the target schools for follow up assistance either through the use of the consultant pool or by HHS program staff. General problems found at the schools were cited by BHM staff to include: poor management of the fund, inadequate needs analysis review, and inadequate maintenance and security of fund. However, when requested, no listing of problem schools could be made available to the reviewers.

Since the overall program default rate is low, around 3% and the dollars overdue are $16 million out of some $500 million obligated thus far, BHM appears to consider these programs a low priority for additional management controls. In addition, the current statute calls for phasing out the programs by June 30, 1983, with participating schools returning to the Federal government the dollars owed, and beginning to operate the funds on their own. BHM seems hopeful that the program will soon be out on its own.

If this does occur, it would be only good management practice to wind up the handling of this program in a planned, well executed fashion. This would be expedient as well if Congress decides that the program should not phase out as anticipated.

Recommendations for the improvement of these programs are listed below. Additional recommendations relating to more cross-cutting claims and collections procedures for both loan and scholarship programs in PHS are provided at the close of the overall report, and where appropriate may be applied to these programs as well.

Recommendations:

- Explore and assess probability that the student loan programs will phase out of existence in 1983 (as far as additional Federal funding is concerned). Develop means to determine whether the Federal Government will receive all funds justly due back.

- Obtain breakdown of $16 million in past due accounts for the student loan programs to determine, for example: funds due past statutes of limitations.

- Develop action plan for assigning financial aid consultants for the student loan program "problem schools" between now and 1983.

- o Update collections component of the student loan manual for schools.

- o Develop process for schools to write-off bad debts, and/or to refer claims to HHS for additional follow up debt collection action. Consider option currently being used by the Department of Education (DoE) in which it provides pre-claims assistance to lenders. (OE sends a letter directly to the debtor - prior to the debt becoming over 120 days overdue - requesting that the debt be paid. This has proved useful in reducing the default level).

- o Recommend a select number of HHS directed audits, for the participating schools in the student loan programs, be conducted to determine compliance with the program requirements - as due diligence, needs assessment, etc.

B. Scholarship Programs Administered by HRA

The Bureau of Health Manpower - in addition to the loan programs cited above, also directly administers various scholarship programs including, for example: the National Health Service Corps Scholarship Program (NHSC) and the Physicians Shortage Area Scholarship Program (PSA). The NHSC Scholarship Program - initiated in 1972 - is designed to assure an adequate supply of physicians, dentists, and other health professionals for service in health manpower shortage areas. Scholarships are awarded to support students who pursue full time courses of study in health professions schools. Upon completion of their training, recipients are to provide service in the NHSC.

In contrast, the PHA Scholarship Program was initiated to encourage individuals from low income, medically underserved areas to receive training as health professionals and to return to these same areas for service. Awards were given to only 341 individuals in 1974, and the program continues to provide support to these same individuals as they near graduation. Upon completion of their training, they are to provide health services in these shortage areas. At that time, the program will be phased out of existence.

Payback Requirements: While defaults are occurring in relatively small numbers so far in the Physicians Shortage Area Scholarship Program, the major problem appears to be with the NHSC scholarship recipients. NHSC payback requirements include service by the recipient of one year of obligated service for each year of support-with a minimum of two years service. Deferment is granted for up to three years to complete internship, residency and other training requirements. If the service obligation is not met, financial payback is required. In most cases, financial payback is not required until three years from the start-up date for service. PL 94-444 (The Public Health Service Act of 1976) had modified that requirement so that awards received after that date are subject to triple damages plus interest payable one year after the service initiation date.

Approximately 20 to 25% of NHSC recipients are declining to serve out their service obligation and instead are opting for dollar repayment of funds received plus interest. Over $245 million has been appropriated since FY 74, of which some $70 million is now subject to payback in time or dollars. As of March 1980, 828 individuals had declined to serve, and of these 72 had paid their obligation ($1,170 million) and 283 had made payments of $847,000. Receivable not yet due but payable in the future for these individuals amount to about $15 million. In addition, claims referred for litigative action - solely bankruptcy cases - amount to about $244,000; and eleven waivers for $145,000 have been made. No claims have been referred for litigation under more routine collection procedures.

In large part, the NHSC Scholarship Program is only beginning to come to fruition with individuals just now graduating from medical and dental schools in debt to the Federal Government for up to four years of financial support. For those individuals who obtained NHSC awards in 1974 as freshmen graduated in 1978, and completed internship and residency requirements (debt is deferred during training) -- they will not be subject to payback provisions until 1981 or 1982.

Given that this program is presently experiencing a 25% default rate, the dollars subject to a Departmental claims and collection process should begin to rise fairly quickly; and with triple damages involved, the receivables due could easily exceed $130 million for funds obligated thru FY 79. After FY 79, receivables in the near term could increase some $60 million or more a year. The Department received appropriations of some $85.5 million for FY 80 (Congress may rescend that to $79.5 million), and plans to request $91.7 million for 1981. The financial implications are staggering if the default rate is not reduced, nor appropriate debt collection activities implemented in the Department.

C. Scholarship Program Administered by the Indian Health Service (IHS)

The Indian Health Service within the Health Services Administration (HSA) administers one scholarship program - the Indian Health Service Health Professions Scholarship Program (IHPS) - which has payback provisions and is subject to this review. The IHPS program, established by PL 94-437 (Indian Health Care Improvement Act) has been in existence for about two and a half years. The program provides a stipend, tuition, fees, etc. for individuals who attend undergraduate health professions schools such as nursing, medical technology; and who agree to serve upon graduation in the Indian Health Service Corps (IHSC) in an area designated as a health manpower shortage area serving a substantial number of Indians.

Payback Requirements: Payback provisions are similar to the NHSC Scholarship Program, that is: one year of service for each award year received, and if service is declined, triple damages plus interest is payable one year after the service initiation date commences.

If an individual graduates, but fails to pass their licensing examination, the IHSC attempts to place them in a related area. For certain fields, as Pharmacy, this is difficult to resolve. If an individual drops out of school or fails, the Indian Health Service can waive, or defer the award amount due or require payment. These decisions are made on a case by case basis with no strict guidelines established. Currently, there is an 18% dropout rate after being in the program for one or two years. IHS had not yet decided how to handle this problem.

While the program is about two and a half years old (so most recipients are either freshmen or soptomores in school), there were about 50 graduates last year. Of these 50, 30 have been placed in shortage areas, 10 remain on the reservation, and 10 have been requested to pay back the award funds received. If an individual is ready and able to serve in the IHSC, and the Corps is unable to find a placement within one year, the entire obligation is voided. The IHSC attempts to project employment needs - by reviewing vacancy rates by subject area - in order to have positions available when the time comes for placement.

Similar to the NHSC, the IHSP is encountering a number of individuals (20% of last year graduates) who are failing to serve and declining to repay their debt to the PHS. With the triple damages plus interest being assessed, as well as unique problems with Indian tribes (e.g., different tribes have different types of assets available to their membership), the dollars and issues to be addressed in the years ahead will be a challenge to the Department's claims and collection process. Receivables due for the 10 individuals currently in default amount to about $480,000. Projected receivables for the 524 individuals now in the program - with a 20% default rate - would amount to some $10 million. As the program expands and grows, so will the level of receivables subject to a Departmental claims and collection process.

D. National Research Service Awards Administered by the National Institutes of Health (NIH) and the National Institute of Mental Health (NIMH)

The Public Health Service awards grants to individual applicants or to eligible institutions to develop or enhance research training opportunities for selected individuals who are training for careers in specified health related research areas. Under the National Research Service (NRS) awards, individuals may receive financial support for pre or post-doctoral training for a maximum of three years. Within two years after completion of NRS award support, individual recipients must meet the payback provisions required under the law.

Payback Requirements: Payback requirements include service by the recipient, for a period equal to the period of support, in continuous specified health-related research or training, or any combination thereof. If there are no research or training positions available to the individual, the PHS can authorize service in the NHSC, service in their speciality in a health maintenance organization serving a medically underserved population, or service in some other health related activity. The individual has two years after graduation, or completion of their training, to decide on their payback options. If an individual fails to serve, the PHS is entitled to recover the total amount paid to the individual, plus interest. Financial payback must be completed within three years after the end of the interim two year decision period.

The NRS Award program was enacted in 1974 and the first awards released in 1975. As of June 30, 1979, some $475 million has been awarded to assist some 18,418 recipients since 1975. Because of the nature of the program, relatively few individuals have been unable to meet their payback provisions through service in a health related teaching or research area. For those cases where a question arises as to whether the service being proposed meets the intent of the law, ad-hoc committees meet in NIMH and in NIH to review and decide on individual cases.

To date, only 18 individuals have had to select financial payback, and over $80,000 has been collected rendering all but one case closed. Because the program was only begun in 1975, there is the potential for a larger number of individuals starting in 1980 who - unable to find suitable service - will enter the financial payback tracking system with funds due back plus interest in three years to PHS. This is beginning to surface now in NIMH where it is reported that 63 individuals cannot be found by NIMH at the close of their two year decision period.

IV. Claims and Collection Process

The Department has in place now a rather long and inefficient claims and collection process - in particular for Public Health Service claims. While this review has examined only a small slice in the Department's claims and collection process - dealing exclusively with those claims resulting from PHS scholarships, awards and loans, it becomes evident that the Department as a whole has exerted little effort to collect on debts owed to the Public Health Service. -- and most probably for other HHS areas as well. In fact, many of the major findings of this review reflect the earlier assessment made by the General Accounting Office (GAO) in its report "The Government can be more Productive in Collecting its Debts by Following Commercial Practices", and its more recent update "Unresolved Issues Impede Federal Debt Collection Efforts--A Status Report".

Subsequent to the release of this report in draft, the PHS requested and received a formal delegation from the OGC of the Secretary's authority - as authorized under the Federal Claims and Collection Act - to compromise, suspend or terminate collection activities on claims (up to $20,000 exclusive of interest) under its programs. While PHS is currently developing policies and procedures to implement this authority, we believe that the claims and collection process as described below will continue for some time and is worthy of discussion.

The reviewers found that a typical PHS claim - that is not resolved through a waiver or converted to repayment - has taken as long as two years to move from the program monitoring branch through the system to the Office of General Counsel (OGC) for action. At this time, it could remain at the OGC for six months to a year prior to referral to the Department of Justice or the General Accounting Office. Once so referred, the Department wipes its hands of it, and any action taken on these cases is left to the wishes and prerogatives of somewhat disinterested parties.

Program Level: For the programs reviewed in this report, there is no uniform or consistent claims and collection process in place - neither within specific programs nor across programs. The majority of these programs were enacted between 1972 and 1974 (except for the loan programs), and the Department has not yet begun to feel the brunt of large numbers of defaulters.

The claims and collection process begins at the program level (e.g., HRA) where the primary emphasis is to get the money out to recipients as opposed to collect debts owed the Federal Government. Currently program staff, on an ad-hoc basis, will attempt to reach individuals and inform them of their indebtedness and request repayment. In general, a series of three letters are sent to the debtor. We found the substance, tone and timing of the letters to be inconsistent with commercial debt collection practices. For example, three letters may be sent by different individuals over a nine month period, after which months may pass prior to referral of the case for additional action within PHS. The letters do not always indicate the nature and amount of the debt owed in a progressively stronger format, and do not necessarily indicate anticipated agency action if the debt is not repaid.

Personal contact - via telephone - with the individual debtor is not common practice. If the individual's address is not current, a postal search may be instituted, and queries may be made to health related professional associations, former schools, etc. This has not proved to be very effective. Skip-tracing, as used regularly by commercial credit bureaus, is not exercised, nor are addresses generally requested from the Internal Revenue Service (IRS) until very late in the PHS claims and collection process. Only one program reviewed (HRA) was even aware of the IRS skip-tracing process. Credit checks on the financial status of individual debtors are not made prior to referral for litigation outside the Department.

Use of Waivers and Write-Offs: For many of the scholarship, loan and award programs, the statutes and regulations allow for waivers or write-offs for cases of deaths, bankruptcies, total or permanent disabilities, as well as for those cases in which collection would be "against equity and good conscience". The latter provision is not detailed nor is additional guidance provided to program managers - or others - within the Departmental collection process. The use of a waiver or write-off is usually initiated at the program office level, on a case-by-case basis, and is referred up the system for approval. A dollar level cap was placed for approval of waivers or write-offs at the PHS Claims Officer level for $800 or less of the principal value of the debt, - but this has been increased to $20,000 due to the redelegation of the Secretary's authority under the Federal Claims and Collection Act.

Based on this review, the waiver or write-off provision does not appear to have been exercised to any real extent. The danger may occur when a substantial number of defaulters begin to flood the system - requesting waivers or write-offs - and with a lack of guidance and adequate procedures, program abuses might result.

Referral to Departmental Finance Offices: Once the program officials decide that further action on their part will not result in a closed case, a referral is generally made to the appropriate finance office for additional action. The National Institute of Health's (NIH) Division of Financial Management handles all NIH referrals, while the Health Service Administration's (HSA) Office of Fiscal Services is responsible for HSA, HRA, and ADAMHA claims. At that time, the respective finance offices review the case, and send additional collection letters (two from NIH and three from HSA) over 30 day intervals. If unable to locate the debtor, postal searchs are again utilized. As discussed above, credit checks are not requested on the debtor, nor are skip-tracing activities initiated. These servides are available through commercial entities such as credit bureaus. Neither finance office was aware of the IRS skip-tracing capability available to the Department.

Finally, if the debt is not brought into repayment, the finance office requests that a Certificate of Indebtedness be prepared by the program staff which details in narrative form, facts of the PHS's claim against the individual debtor. The Certificate of Indebtedness was instituted some six months ago by the PHS Claims Officer in response to the Office of General Counsel's request. Prior to that, a case file was used and summarized in memoranda format the claims and collection process.

One program office (HRA which handles the NHSC, and the other scholarship and loan programs), skips entirely the finance office level. It keeps HSA's Office of Fiscal Services informed of cases referred, and goes directly to the next layer in the collection system.

Public Health Service Claims Officer: The Public Health Service Claims Officer (CO) receives claims referred for additional action from the various finance offices in PHS and occasionally directly from a program component - as with HRA. The CO reviews the case file to determine if adequate due diligence (minimum of 3 collection letters) has been performed, requests a Certificate of Indebtedness if one has not been prepared, and conducts a Postal Search or requests the last known mailing address from the Internal Revenue Service. A final collection letter is sent to the debtor prior to referral for legal action. This would be the 5th or 6th collection letter received by the debtor - at a minimum - from three different levels within PHS over an extended time span.

After a 30 day waiting period to allow the debtor time to respond to this "final" demand letter, the CO reviewed the case for referral to the Departmental Claims Officer. Given the recent redelegation of the Secretary's claims and collections authority to PHS, the PHS Claims Officer will be alble to compromise or write off debts up to $20,000 (excluding interest), and will be able to refer cases through the PHS Office of General Counsel to the U.S. Attorney or Department of Justice for litigative action as appropriate. Procedures to implement this delegation will need to be finalized and implemented -- if not done so already. While the Claims Officer serves as the PHS focal point for claims and collections, the CO has not provided routine claims and collections procedures for the PHS program and finance offices. There do not appear to be any such PHS procedures in place to date.

A status report on claims arising from PHS financial assistance programs revealed only 17 cases active to date -- all within the HRA area. None had been received from either the Indian Health Service or for the National Research Service Awards. Of the 17 cases listed, 5 have been resolved through recovery or cancellation. The pending cases date back to 1976.

Of these cases, 2 have been referred to the Departmental Claims Officer; one case is at the General Accounting Office; one case is to begin repayment through installments in 1980; four were returned to the program staff (in 9/79) for development of a Certificate of Indebtedness; and the remaining four were in the various stages of the collection review process. The majority of these claims are for relatively small amounts (under $6,000) and only 2 cases are for over $21,000. The latter are for the Physicians Shortage Area Program.

Office of General Counsel - Departmental Claims Officer: Prior to the redelegation, claims were referred by PHS to the OGC's Departmental Claims Officer (DCO) for follow-up litigative action or for approval of a waiver or cancellation of the debt up to $20,000 of principal value*. The DCO reviewed each case to determine if due diligence has been met, and to assess the background information on the case and the defense being raised by the debtor. The DCO is now meeting with the IRS in order to obtain a contract to use their skip-tracing capabilities as necessary. This was not previously requested by the DCO. If the debt appears viable, the case is referred to the GAO Claims Office for follow-up action.

* Dollar value set in accordance with provision of Federal Claims and Collection Act.

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The DCO has met with GAO representatives regarding GAO's planned delegation to the Agency, of the authority for direct claims review and referral to the U.S. Attorney or the Department of Justice. The DCO met with the PHS Claims Officer regarding these new procedures, and HHS is to enter a probationary period with GAO on a few cases to test the system.

A status report was requested in December 1979 on PHS financial assistance claims under action by the DCO, and it was found that only four claims fell into this category. All had been received since July 1979, and had not yet been acted upon. The DCO had received very few of these cases in the past and does not have any like pending cases at the General Accounting Office. The DCO's view of the GAO claims office was that it was akin to a "dead letter box", and it welcomes the Department's ability to refer cases directly to the U.S. Attorney. Up until now, the GAO was not interested in receiving claims for under $600 and the Department of Justice for under $2,000. It is not clear whether this financial limit will change in the future.

The Business and Administrative Law Division is currently circulating for review and comment, a draft revision of the Department's regulations under the Federal Claims and Collection Act. These will be Department-wide regulations, and highlight recent amendments to the Act and indicate where the Secretary had delegated responsibility under the Act. The draft regulations will provide overall claims and collections procedures for Departmental claims including guidance in such matters as timeliness of collection letters, use of credit bureaus to report bad debts, etc. These procedures - if accepted and implemented down to the initial program office level - should provide some improvement to the Department's claim and collection process.

Office of General Counsel - Public Health Service Division (OGC-PHS): Claims involving bankruptcy cases are routinely referred by certain program areas, such as HRA, to the PHS Division of the OGC. Because of a need for timeliness in filing proof of PHS's claim as a creditor (creditors generally have 6 months from filing of a bankruptcy notice to respond), the PHS Division has handled these cases for program staff. So far, most cases have involved students with little or no assets, and the incentive is not high to act on the cases until the last moment.

The active case load now is approximately 12 cases which have been referred by HRA to OGC-PHS, and of those, eight have been sent to the Department of Justice for follow-up. This area appears to have a low priority in PHS-OGC, and tracking of cases does not seem to be very effective.

As of October, 1976 with the passage of PL 94-444, bankruptcies are now prohibited - without just cause - until five years after the completion of an individual's schooling. This statute should reduce the number of bankruptcies filed in order to remove school or PHS debts.

V. Analysis and Recommendations

In this exploratory analysis of the Departments' efforts to recoup debts owed to a select grouping of PHS scholarship, loan and grant programs, the Office of Inspector General found HHS's debt collection practices to be slow, ineffective and costly. Policies and procedures do not appear to exist across the board for PHS debt collection activities, and in particular, do not exist for the programs reviewed. The procedures that are in place -- on an ad-hoc basis -- are outdated, inadequate and bear little resemblance to the practices used in the commericial sector.

Current Practices: The reports findings support the GAO report cited earlier: "The Government Can Be More Productive in Collecting Its Debts by Following Commercial Practices", as well as its recent status update.

For example, collection letters are not standardized as to content and impact, nor are they sent under a prescribed time schedule designed to bring the debt to a resolution. Skip-tracing, personal telephone contacts to the debtor, and credit checks that are done routinely by the commercial sector are not done by PHS. Debtors are not sufficiently urged to enter into repayment plans by PHS; and once so engaged, debtors are not sent regular (monthly, quarterly, etc.) bills automatically. Finally, litigation is not used by the PHS to the degree exercised effectively in the commercial world.

In addition to the lack of policies and procedures, the problem is exacerbated by an excessive layering of offices whose staffs review and massage the claims files without adding anything to the process. In many cases, they merely duplicate what the prior office has already done. As case files move slowly from one office to the next, feedback does not occur adding to the frustration and mystery of the process. While more offices are involved in the debt collection process than appears required, most offices complained of being short staffed and attributed that - as well as a lack of procedures - to their poor track record for handling cases in an effective and speedy fashion.

The Office of General Counsel has been involved in the handling of claims - either acting as the Departmental Claims Officer in the Business and Administrative Law Division - or serving as a program support function in the PHS Division of OGC. While neither office appears to be made claims processing an important function of their office, they have been able to make do under the circumstances. If the claims area begins to expand and grow rapidly in the level of receivables past due, as well as in the legal complexities of obtaining what is justly due back the Federal Government, the OGC will have to rise to meet the challenge. It has been our view that the claims and collection process would be better served if PHS was delegated appropriate authority to handle its own claims processing and referral for litigation thus freeing up the Business and Administrative Law Division to the more important task - among its other duties - of Departmental oversight and advice on the more difficult debt collection issues that lie ahead. Subsequent to the release of this report on Draft, the PHS did request and receive a redelegation of the Secretary's authority in the claims and collection area.

Student Loan Program Concerns: The student loan programs were briefly reviewed and found to have even a lower priority in terms of PHS management oversight and concern for past due indebtedness. The feeling conveyed was that the overall default rate was low - 3% or $16 million past due as reported by the schools, and that the program would soon "go away" in June 1983 as currently provided for by law. While PHS program managers admitted to certain management problems at the schools, they were unable - or unwilling - to provide a list of problem schools. Procedures to provide assistance through the use of program consultants also did not exist. Funding for program reviews via consultants has been cut thus far for FY 80. It would seem to be only good management practice to wind up the handling of this program in a planned, well executed fashion. This also would be useful if Congress decides that the program should not phase out as anticipated.

Use of Credit Bureaus/Collection Agencies: In the review, the OIG found that overdue debts are not being entered into the Credit Bureau Network in order to locate debtors or to impact on the debtor's credit rating, nor are commercial collection agencies being considered for use in specialized situations. Both these activities are used routinely in the commercial world.

With regards to the use of collections agencies, the OIG is currently conducting an evaluation of the Collection of Guaranteed Student Loans by Private Collection Contractors Versus Collection Staff of the Department of Education. This evaluation is being monitored by the General Accounting Office as a test to determine the potential for wider use of collection agencies to help collect Federal debts.

The matter of the use of commercial credit bureau, however, is under debate at the moment. In the Federal Claims Collection Standards, issued jointly by the Attorney General and the Comptroller General, on April 30, 1979, guidance is provided to agencies on debt collection -- including a recommendation that Federal agencies report debtors to private credit bureaus. A major obstacle to implementation of this requirement involves legal issues raised by a Department of Justice opinion on the applicability of the Privacy Act of 1974 (5 U.S.C. 552a) to records maintained by credit bureaus. The Office of Legal Counsel, Department of Justice, has taken the position that such reporting would bring the credit bureaus under provisions of the Privacy Act, a condition the credit bureaus do not want. GAO has attempted to resolve the issue, and is now working with Congressional committees to that end.

Before the Department establishes a position on the use of collection agencies, or credit bureaus, we should await the results of our own evaluations and/or program findings. The use of credit bureaus and collection agencies would have to be with due consideration to program objectives, the individual's ability to repay the debt, and good Departmental debt management practices.

Related Efforts: Departmental Debt Collection Initiative: The OIG is concerned that the project receivables for the targeted programs alone will begin to escalate to the hundreds of millions of dollars in the next few years, and that the Department will not be prepared to adequately handle the situation when it arises. Efforts are underway now in the Office of the Assistant Secretary for Management and Budget (ASMB) to improve the way in which HHS accounts for and monitors its accounts receivables - as noted in their recent report to the Office of Management and Budget (OMB). The Public Health Service and the Social Security Administration are also reassessing their needs in debt management and beginning to formulate plans to this effect. In the recent OMB report, ASMB in conjunction with OGC and OIG recommends that the Department develop an HHS Debt Collection Initiative to assure a crosscutting management perspective to debt collection issues in the Department.

It is our belief that the inadequacies of HHS's debt collection policies and procedures are due to our ignorance of: the extent of the present accounts receivables, what our future obligations will look like, the practices and procedures used now in the commercial sector, and what procedures are appropriate for our particular situation. The Department is not alone in this respect as noted in various GAO reports in this area. We believe that attention beyond that being initiated at the POC level is required.

Recommendations for the improvement of Departmental claims and collections procedures are detailed as follows.

Recommendations:

1) Develop Departmental policies and procedures for debt collection from top to bottom for PHS programs in general, and the targeted programs in particular.

Specific claims processing procedures recommended include:

- o Reduce time frame for processing of debts to 120 days from past due date to referral for litigation - where appropriate.
- o Obtain credit report on all over-due debt cases prior to referral to litigation within HHS.
- o Utilize credit bureau network for entering of bad debts as well as for skip tracing capabilities (when approved by Congress).
- o Utilize IRS, postal searches and credit bureau skip-tracing (when available) early in the collection process.
- o Utilize payment plan options to the fullest and incorporate an automated billing system for all payment plans.
- o Install an "800" telephone line (as debt volume increases) to permit and encourage debtors to call regarding their debt.
- o Verify Social Security Numbers (SSN) where possible when individual first incurs the obligation; and later for those cases where debtors cannot be located, PHS should verify those SSN's at the Social Security Administration.
- o Reduce excessive layering of offices doing similar or identical claims processing while developing a crosscutting effective claims office to handle expanded duties as required under the Federal Claims and Collection Act.
- o Prevent abuse by developing mechanisms to set standards and to monitor use of waiver provision for programs.
- o Contact U.S. Attorneys in advance to determine their particular requirements for handling debt cases. (The Department of Education) has had an initiative in this area and should be contacted first to determine what ground work has already been done).
- o Explore with IRS the possibility of turning over to them all accounts written off as uncollectable so that IRS can tax as income the funds received by the debtor.

2) Redelegate the Secretary's authority - as authorized under the Federal Claims and Collection Act - to the Public Health Service to compromise or to suspend or terminate collection activities on claims (up to $20,000 exclusive of interest) under its programs. Authorize the OGC-PHS Devision to work directly with the Department of Justice, U.S. Attorneys and the General Accounting Office on the referral and follow up of claims.

   The PHS Office of Management and the OGC-PHS Division would both have to develop the necessary and appropriate standards and procedures to exercise these authorities, as well as assure that adequate, trained staff are available to handle the work load anticipated. The above noted standards and procedures would be similar to those already in existence at the Social Security Administration and at the Health Care Financing Administration.

   This recommendation was implemented subsequent to the draft release of this report, and the necessary standards and procedures are now being developed within PHS.

3) Develop a Secretarial Debt Collection Initiative to assure the Department a broad, long range perspective to debt management, to monitor areas of concern, and to coordinate the debt collection efforts among all parties within HHS. It is recommended that ASMB, OIG, OGC and the affected POC's be involved in its development and implementation.

4) Explore additional service options for the NHSC and IHSC Scholarship programs so as to prevent future defaults on their obligations.

5) Recommendations specific to the student loan programs are cited in the student loan section of the program findings.

Agency Comments:

The Public Health Service, Office of the Assistant Secretary for Management and Budget, and the Office of General Counsel are in general agreement with our findings, and concurred in our recommendations. A copy of their specific comments are found in Appendix B.

Appendix A

Listing of Individuals Interviewed

I. Health Resources Administration:

- o Donald Parks, Deputy Director, Office of Program Support
- o George Crocker, Deputy Director, Division of Manpower Training Support
- o Norman Roskos, Chief, Fiscal Services Branch
- o Gary Wold, Chief, Health Service Scholarship Branch
- o John F. Belin, Chief, Student and Institutional Assistance Branch
- o Kirk M. Donovan, Chief, Assessment and Training Branch

II. National Institutes of Health:

- o William Batchelor, Manpower Research Officer, Office of the Director
- o Robert Moore, Statistics and Analysis Branch, Division of Research Grants
- o Herbert J. Kreitman, Acting Chief, Federal Assistance Accounting Branch, Division of Financial Management

III. National Institute of Mental Health:

- o William Denham, Director, Division of Manpower and Training Programs (DMTP)
- o William J. Huber, Acting Deputy Director, DMPT
- o Lorraine B. Torres, Associate Director for Extramural Program

IV. Health Services Administration:

- o Pierre Columbel, Chief, Human Resources Development Branch, Indian Health Service
- o Carl Fitzpatrick, Office of Fiscal Services

V. Office of Assistant Secretary for Health:

- o Arthur Simon, Director, Division of PHS Claims

VI. Office of the General Counsel:

- o Sarah Hertz, Chief, Litigation and Claims Branch, Business and Administrative Law Division
- o Gayla Fuller, Attorney Advisor, Public Health Service Division

APPENDIX B

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY

TO : Sherry W. Gardner
Office of the Inspector General

DATE: APR 17 1980

FROM : Sarah Hertz, Chief SH
Litigation and Claims Branch, OGC

SUBJECT: Draft - Debt Collection Practices in Selected Public Health Service Loan, Scholarship and Award Programs

I read your excellent report and have the following general comments:

I agree that debt collection has not been given its proper place as a worthy pursuit. Its future looks brighter now that the processing of claims is emerging from its status as a clerical task to a scientific one with the aid of computerized data, collection forms and the yet-to-be established network of credit bureaus. Your report made clear that collection per se is a program/fiscal function and should not be referred to the OGC until it breaks down.

I concur in your suggestion that the Secretary delegate authority under the Act to the Assistant Secretary of Health similar to that delegated to the Administrator of HCFA and the Commissioner of Social Security.

I believe, however, that the need for checks and balances demands cautious redelegations of authority to compromise, suspend or terminate collection action. Those responsible for generating debts and those collecting are not necessarily the ones who should have such delegations. Justifications for compromising or for terminating may vary from the obvious to the complex. The amounts involved may also determine levels of redelegations of authority to compromise or terminate.

When a claim is ripe for compromise or termination, legal issues are generally involved in applying the claims collection standards to a given case. In that event a claim should be referred to the OGC. When collection must be enforced, the OGC is presently limited to referral of a claim to either the GAO or to the Department of Justice for suit. Once referred there is no accountability to the Department. I believe it would therefore be useful for the IG to urge the Attorney General to delegate to government attorneys outside the Department of Justice the authority to litigate debt collection cases arising within their Departments. These attorneys are busy too, but I am confident they would welcome the opportunity to go to trial on these cases. I believe this step would make a critical difference in the success of the government's collection effort.

At the very least, there should be established a small claims section in the Federal District Court to litigate claims up to an amount considered appropriate, like - $5,000. I believe that reducing a claim to judgment is the most effective collection tool which is unfortunately not readily available to the Government.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Acting Deputy Inspector General, OS JUN 5 1980

Acting Director
Office of Management

Draft Report on Debt Collection Practices in Selected Public Health Service Loan, Scholarship and Award Programs

As requested, appropriate PHS officials have reviewed the subject draft report and are in general agreement with its findings. The cited deficiencies associated with the claims and collection process appear to extend beyond the selected PHS programs which were reviewed. Consequently, we plan to undertake a comprehensive approach, in coordination with current efforts of the Office of the Assistant Secretary for Management and Budget and the Office of the General Counsel in order to effectively implement debt collection improvements for all PHS programs.

We have initiated preliminary action toward (1) identifying the extent of required reforms, (2) developing a plan of action which will lead to desired improvements, (3) identifying changes in program legislation and regulations that are needed to improve the debt collection authorities of PHS, and (4) developing uniform PHS policies for the financial and business management aspect of PHS debt collection activities. We will also monitor the actions taken on the recommendations under the HRA Student Loan Programs. These actions, which are interrelated with other departmental endeavors, are already underway and will be intensified.

We believe the actions which are being taken will result in improved debt collection practices throughout PHS on a consistent basis.

(Sgd) Jack N. Markowitz

Jack N. Markowitz

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY

TO : Bryan B. Mitchell
Acting Deputy Inspector General

MAY 1 1980

FROM : Assistant Secretary for Management
and Budget

SUBJECT: Department's Comments on OIG's Draft Report "Debt Collection Practices in Selected Public Health Service Loan, Scholarship and Award Programs."

Attached are the Department's comments on the subject OIG report. We are generally in agreement with your recommendations. However, there are references made in the report to the "Department" that are not factual. For example in paragraph IV, Claims and Collection Process, the following statement is made:

> "it becomes evident that the Department as a whole is exerting little effort to collect on debts owed to the Public Health Service--and most probably for other Departmental areas as well."

This statement is not true for the following reasons:

In August 1977 HHS began a four phase effort in this area. The following initiatives were completed or are currently underway:

Phase 1-Accounts Receivable-Audit Disallowances-In the area of Accounts Receivable-Audit Disallowances a standard system was established by the Office of the Secretary/Deputy Assistant Secretary, Finance to be used by all HHS Principle Operating Components (POCs).

All transactions involving audit disallowances are locked into the systems until collected, written off, or offset.

Quarterly, analytical reports are prepared by OS/DASF to monitor and evaluate the POCs performances. These reports provide the total amount of audits sustained, collected, under appeal, adjusted, written off, and uncollected (Accounts Receivable).

This standard system was approved by the General Accounting Office (GAO) in 1978.

Phase 2-Accounts Receivable-Owed by the Public (Other than audit disallowances)-This phase of our overall effort is to control and account for loans and accounts receivable due from the public. The amounts owed by other federal agencies and employees will be addressed in Phase 3 and 4.

OS/DASF is presently developing and issuing Department-wide policies and procedures for managing these receivables. The POCs performance of these policies and procedures will be monitored by DASF and a reporting mechanism will be established for management at all levels.

Phase 3-Accounts Receivable-Other Government Agencies- This area is not as critical as Phase 1 and 2 because it covers all monies due from other Federal Agencies, transfers between HHS appropriations, and charges to the Trust Funds.

We are planning to evaluate the process and make systems modifications during the current calendar year.

Phase 4-Accounts Receivable-Employees-This phase will cover monies due from employees such as travel and salaries. The evaluation, and any systems modifications, are planned for fiscal year 1981.

As you know we have worked very closely with the IG's office on Phase 1, during both the systems design and operation stages of the effort. This was the subject of hearings by the House Government Operations Committee at which Tom Morris and I testified for the Department.

In addition to the above efforts, my Office of Finance has the lead for HHS in the President's Management Improvement Council effort to review the Debt Collection Practices in the Federal Government. The review is focusing on the management, recording, and collection of accounts receivable due to the Department by the public. A report on this effort is expected by May 31, 1980.

Andy Kapfer, Acting Deputy Assistant Secretary, Finance and his his staff are available to discuss the details of the above with you or your staff at your convenience.

Frederick M. Bohen

Attachment

Attachment

Comments of the Assistant Secretary for Management and Budget on the Office of Inspector General's Final Report "Debt Collection Practices In Selected Public Health Service Loan, Scholarship and Award Programs.

Overview

We have reviewed the final OIG report and are in general agreement with your findings and recommendation pertaining to the limited number of individual programs that you reviewed in PHS. Our preliminary conclusion of a much larger review effort for the Presidents Management Improvement Council effort basically support your findings. However, we take strong exception to the references made to the "Department," tending to lead the reader of this report to the erroneous conclusion that the Department is taking no actions in the area of debt collection. Debt collection has been and will continue to be a priority item in the Department.

The Department will continue to focus efforts on the management, recording, and collection of debts due the Department.

OIG Recommendations

Develop Departmental policies and procedures for debt collection-from top to bottom for PHS programs in general, and the targeted programs in particular. (Specific claims processing procedures were listed, - e.g. "obtain credit report on cases prior to referral for litigation.")

Department Comment

We concur. The Public Health Service/Office of Resource Management (PHS/ORM) has recently established a task force to review the various loan programs and focus on better methods of debt control which would also include the review of the present policies and procedures for debt collection. This effort will also review the present lines of communications between the finance and program offices which has been and continues to be a problem area.

OIG Recommendation

Develop necessary debt collection practices for the student loan programs-as appropriate; explore probability that the programs will phase out of existence in 1983; and conduct a select number of HEW directed audits at participating schools to determine program compliance. (Additional specifics are detailed in body of report).

Department Comment

We concur. The task force being established in PHS/ORM would cover this recommendation as well as the one above. Although we believe that direct audits of schools is a good recommendation, the present budget cuts may preclude its implementation. Direct audits would provide the necessary data to determine if schools are complying with the programs regulations but it would not necessarily result in acceleration of collection of delinquent receivables.

OIG Recommendation

Explore additonal service options for the National Health Service Corp and Indian Health Service Corp Scholorship programs so as to prevent and reduce future defaults in these programs.

Department Comment

We concur.

OIG Recommendation

Redelegate Secretary's authority-as authorized under the Federal Claims and Collection Act-to the PHS to compromise, suspend or terminate collection activities on PHS claims, and permit OGC-PHS Division to work directly with the Department of Justice, U.S. Attorneys and GAO on the referral and follow-up of claims. If this does not transpire, recommend the current OGC Divisions develop the capacity to handle the anticipated claims processing workload.

Department Comment

We concur.

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